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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** June 4, at 9:00 a.m.
- WHERE:** Office of the Federal Register.
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1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240.
- DIRECTIONS:** North on 11th Street from Metro Center to corner of 11th and L Streets

CHICAGO, IL

- WHEN:** June 16; 9:00 a.m.
- WHERE:** Room 328
Ralph H. Metcalfe Federal Building
77 W. Jackson
Chicago, IL
- RESERVATIONS:** Call the Federal Information Center.
1-800-368-2998

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This section of the **FEDERAL REGISTER** contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first **FEDERAL REGISTER** issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052-AB29

Eligibility and Scope of Financing; Nondiscrimination in Lending; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under part 613 on April 17, 1992 (57 FR 13635). The final regulations amend 12 CFR part 613 to add two new protected categories, prohibit discrimination in "residential real estate-related transactions," as defined in the law, revise the Equal Housing Lender Poster, conform complaint processing procedures and make technical amendments referencing the Department of Housing and Urban Development fair housing regulations and the Equal Credit Opportunity Act. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 27, 1992.

EFFECTIVE DATE: May 27, 1992.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, FCA Examiner, Policy and Risk Analysis Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4258, or

Christine C. Dion, Attorney, Legislative and Regulatory Law Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

Authority: 12 U.S.C. 2252(a)(9) and (10).

Dated: May 21, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-12307 Filed 5-26-92; 8:45 am]

BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Interpretive Ruling and Policy Statement No. 92-1; Supervisory Policy Statement on Securities Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretive Ruling and Policy Statement No. 92-1.

SUMMARY: With certain modifications, the NCUA Board has adopted for federal credit unions (FCUs) the Federal Financial Institutions Examination Council (FFIEC) supervisory policy statement entitled "Supervisory Policy Statement on Securities Activities." This policy statement updates and revises the previous statement to better serve FCUs in today's complex investment environment. The FFIEC has recommended that its constituent members adopt the policy statement.

EFFECTIVE DATE: June 28, 1992.

ADDRESSES: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, Office of General Counsel (202-682-9630), or Charles Felker, Investment Officer, Office of Examination and Insurance (202-682-9640), at the above address.

SUPPLEMENTARY INFORMATION: The FFIEC, an interagency group, has recommended that its constituent members—the Federal Reserve Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision—adopt its supervisory policy statement entitled "Supervisory Policy Statement on Securities Activities." The NCUA Board approved the FFIEC supervisory policy statement, with certain modifications, on April 23, 1992, for inclusion in

NCUA's official system of policy statements.

The FFIEC policy statement mainly updates and revises its Supervisory Policy Statement on the "Selection of Securities Dealers and Unsuitable Investment Practices" which was approved by the FFIEC in April 1988. The NCUA Board subsequently adopted the April 1988 statement with certain modifications and issued it as Interpretive Ruling and Policy Statement No. 88-1 entitled "Policy on Selection of Securities Dealers and Unsuitable Investment Practices."

The April 1988 statement emphasized the importance of a depository institution knowing the securities firms with which it does business and dealt with certain regulatory concerns pertaining to speculative and other activities improperly carried out in an institution's investment portfolio. It also identified risks associated with Stripped Mortgage Backed Securities (SMBSs), Asset-Backed Securities (ABS) Residuals, and other zero coupon or stripped products, and concluded that they may be unsuitable investments for a depository institution.

The new policy statement supersedes the April 1988 statement. The new policy statement addresses the selection of securities dealers, requires depository institutions to establish prudent policies and strategies for securities transactions, defines securities trading or sales practices that are viewed by the agencies as being unsuitable when conducted in the investment portfolio, indicates characteristics of loans held for sale or trading, and establishes a framework for identifying when certain mortgage derivative products are high risk mortgage securities which must be held in either a trading or held-for-sale account.

The policy statement is divided into three sections. Section I, which addresses the selection of securities dealers, and applies without modification to FCUs. Section II, which addresses securities portfolio policy and strategies and unsuitable investment practices, apply with certain modifications to FCUs. The modifications were made to ensure that the policy statement complies with the investment powers and limitations contained in sections 107(7), 107(8), and 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(7), 1757(8), and 1757(15));

and part 703 of NCUA's Rules and Regulations (12 CFR part 703). Section III, which addresses mortgage derivative products, other asset backed products, and zero coupon bonds, does not apply to FCUs because those securities are addressed comprehensively in part 703 of NCUA's Rules and Regulations. NCUA has included section III in this interpretive ruling so that the ruling will be consistent with the statements published by the other members of the FFIEC.

In addition, where the rules set forth in section III are more restrictive than those in part 703, FCUs may choose to consult the rules in section III for additional guidance.

Interpretive Ruling and Policy Statement No. 92-1

Purpose

This supervisory policy informs insured depository institutions about:

- Recommended procedures to be used in the selection of a securities dealer;
- The need to document and implement prudent policies and strategies for securities, whether they are held for investment, for trading, or for sale, and to establish systems and internal controls that are designed to ensure that securities activities are consistent with the policies and strategies;
- Certain securities trading and sales practices that are viewed by the federal financial institution regulators as being unsuitable when conducted in an investment portfolio, thereby precluding the use of the amortized cost basis of accounting for securities holdings resulting from such practices.

The substance of an institution's securities activities determines whether securities reported as investments are, in reality, held for trading or for sale. Securities held for trading must be reported at market value and securities held for sale must be reported at the lower of cost or market value. The guidance regarding securities held for sale or trading is also applicable to loans held for sale or trading:

- High-risk mortgage securities that are not suitable investment portfolio holdings for depository institutions. These securities may only be acquired to reduce an institution's interest rate risk and must be reported in the trading account at market value, or as assets held for sale at the lower of cost or market value. Examiners may seek the orderly divestiture of high-risk mortgage securities that do not reduce interest rate risk. Other products with risk characteristics similar to high-risk mortgage securities may be subject to the same supervisory treatment; and

—Disproportionately large holdings of long-term zero-coupon bonds that are considered an imprudent investment practice. Such holdings will be subject to criticism by examiners who may seek their orderly disposal.

Background

In a number of cases where depository institutions engaged in speculative or other non-investment activities in their investment portfolios, the portfolio managers placed undue reliance on the advice of a securities sales representative. Some depository institutions have failed because of their speculative securities activities. Other institutions have had their earnings or capital impaired and the practical liquidity of their securities eroded by market value depreciation. Many of these problems could have been avoided had sound procedures been followed.

These factors led to the development of a supervisory policy statement on the "Selection of Securities Dealers and Unsuitable Investment Practices" that was approved by the Federal Financial Institutions Examination Council ("FFIEC") in April 1988. That policy statement emphasized the importance of a depository institution knowing the securities firms with which it does business and also dealt with certain regulatory concerns pertaining to speculative and other activities improperly carried out in an institution's investment portfolio.

In addition, it identified risks associated with Stripped Mortgage-Backed Securities (SMBSs), Asset-Backed Securities (ABS) Residuals, and other zero-coupon or stripped products and concluded that they may be unsuitable investments for the vast majority of depository institutions.

This supervisory policy statement supersedes the April 1988 Policy Statement by providing additional information on the development of a portfolio policy and strategies for securities and on securities practices that are inappropriate for an investment account. It also discusses factors that must be considered when evaluating whether the reporting of an institution's investment portfolio holdings is consistent with its intent and ability. In addition, this policy statement contains expanded guidance on the suitability of acquiring and holding mortgage derivative products, other similar products, and zero coupon bonds.

Detailed guidance is provided in the following three sections:

Section I: Selection of Securities Dealers

Many depository institutions rely on the expertise and advice of a securities

sales representative for recommendations concerning proposed investments and investment strategies and for the timing and pricing of securities transactions. Many of the problems depository institutions have experienced with their securities activities could have been avoided had sound procedures been followed.

It is essential that the management of a depository institution have sufficient knowledge about the securities firms and personnel with whom they are doing business. A depository institution should not engage in securities transactions with any securities firm that is unwilling to provide complete and timely disclosure of its financial condition. Management should review the securities firm's financial statements and evaluate the firm's ability to honor its commitments before entering into transactions with the firm and periodically thereafter. An inquiry into the general reputation of the dealer is also necessary. The board of directors, or an appropriate committee of the board¹ should periodically review and approve a list of securities firms with which management is authorized to do business. The board or an appropriate committee thereof should also periodically review and approve limits on the amounts and types of transactions to be executed with each authorized securities firm. Limits to be considered should include dollar amounts of unsettled trades, safekeeping arrangements, repurchase transactions, securities lending and borrowing, other transactions with credit risk, and total credit risk with an individual dealer.

At a minimum, depository institutions should consider the following in selecting and retaining a securities firm:

- (1) The ability of the securities dealer and its subsidiaries or affiliates to fulfill commitments as evidenced by capital strength, liquidity, and operating results. This evidence should be gathered from current financial data, annual reports, credit reports, and other sources of financial information.
- (2) The dealer's general reputation for financial stability and fair and honest dealings with customers. Other depository institutions that have been or are currently customers of the dealer should be contacted.
- (3) Information available from State or Federal securities regulators and securities industry self-regulatory organizations, such as the National

¹ An appropriate committee of the board is one whose activities are subject to review and ratification by the board of directors.

Association of Securities Dealers, concerning any formal enforcement actions against the dealer, its affiliates or associated personnel.

(4) In those instances when the institution relies upon the advice of a dealer's sales representative, the background of the sales representative with whom business will be conducted should be evaluated in order to determine his or her experience and expertise.

In addition, the board of directors (or an appropriate committee of the board) must ensure that the depository institution's management has established appropriate procedures to obtain and maintain possession or control of securities purchased. In this regard, purchased securities and repurchase agreement collateral should only be left in safekeeping with selling dealers when: (1) The board of directors or an appropriate committee thereof is completely satisfied as to the creditworthiness of the securities dealer; and (2) the aggregate market value of securities held in safekeeping in this manner is within credit limitations that have been approved by the board of directors (or an appropriate committee of the board) for unsecured transactions (see the October 1985 FFIEC Policy Statement entitled "Repurchase Agreements of Depository Institutions with Securities Dealers and Others," NCUA's Interpretive Ruling and Policy Statement No. 85-2). FCUs, when entering into a repurchase agreement with a broker/dealer, are not permitted to maintain the collateral with the broker/dealer (see part 703 of the National Credit Union Administration's Rules and Regulations).

As part of the process of providing oversight over a depository institution's relationships with securities dealers, the board of directors may wish to consider adopting a policy concerning conflicts of interest when employees who are directly involved in purchasing and selling securities for the depository institution are also engaging in personal securities transactions with these same securities firms.

The board may also wish to adopt a policy applicable to directors, officers, and employees concerning the receipt of gifts, gratuities, or travel expenses from approved securities dealer firms and their personnel. (Also see in this connection the Bank Bribery Act, 18 U.S.C. 215, and interpretive releases.) An FCU's directors, officials, committee members, senior management employees, and employees directly involved in investments or deposits, and the immediate family members of such individuals, may not receive pecuniary

consideration in connection with the making of an investment or deposit by the FCU (see part 703 of the NCUA Rules and Regulations).

Section II: Securities Portfolio Policy and Strategies and Unsuitable Investment Practices

Policy and Strategies

A portfolio policy is a written description of authorized securities investment, trading and held-for-sale activities, and the goals and objectives the institution expects to achieve through such activities. Strategies are written descriptions of the way management intends to achieve these goals and objectives and should address management's plans for each type of security (e.g., U.S. Treasuries, mortgage-backed securities, etc.) that will be used to carry out the portfolio policy. The portfolio policy and strategies should be consistent with the institution's overall business plan which may involve trading, held-for-sale, and investment activities. However, securities trading activity should only be conducted in a closely supervised trading account by institutions with strong capital and earnings and adequate liquidity. Each institution's portfolio policy and strategies must describe anticipated investment activities and either identify anticipated trading and held-for-sale activities or state that the institution will not enter into any trading or held-for-sale activities.

Securities activities must be conducted in a safe and sound manner. Each depository institution's board of directors should review and approve the overall portfolio policy and management's documented strategies annually, or more frequently if appropriate, and these approvals must be adequately documented. Furthermore, the board of directors or an appropriate committee thereof should review the institution's securities activities and holdings no less than quarterly. The board of directors or an appropriate committee thereof should also oversee the establishment of appropriate systems and internal controls that are designed to ensure that securities activities and holdings are consistent with the strategies of the institution and that the implementation of the strategies remains consistent with the portfolio policy's objectives.

When developing its portfolio policy and strategies, an institution should take into account such factors as asset/liability position, asset concentrations, interest rate risk, liquidity, credit risk, market volatility, and management's capabilities and desired rate of return.

If the board of directors of a depository institution fails to adopt policies and strategies related to securities or if an institution fails to adhere to the policies and strategies approved by its board of directors, examiners may determine that some or all securities are held for sale or held for trading. Held-for-sale securities must be reported at the lower of cost or market value and trading activities must be reported at market value.

Proper Reporting of Securities Activities

Securities must be reported in accordance with generally accepted accounting principles (GAAP)² consistent with the institution's intent to trade, to hold for sale or to hold for investment.

Depository institution investment portfolios are maintained to provide earnings consistent with the safety factors of quality, maturity, marketability, and risk diversification. Securities that are purchased to accomplish these objectives may be reported at their amortized cost only when the depository institution has both the intent and ability to hold the assets for long-term investment purposes. Transactions entered into in anticipation of taking gains on short-term price movements are not suitable as investment portfolio practices. Such transactions should only be conducted in a closely supervised securities trading account by institutions that have strong capital and earnings and adequate liquidity. Securities holdings that do not meet the reporting criteria for either investment or trading portfolios must be designated as held for sale.

Trading in the investment portfolio is characterized by a high volume of purchase and sale activity that, when considered in light of a short holding period for securities, clearly demonstrates management's intent to profit from short-term price movements. In such situations, a failure to follow accounting and reporting standards applicable to trading accounts may result in a misstatement of the depository institution's income and other published financial data and the filing of inaccurate regulatory reports. It is an unsafe and unsound practice to report securities holdings that result from trading transactions using reporting standards that are intended for securities held for investment purposes. Securities held for trading must be

² In those cases where a difference in the interpretation of GAAP arises between an institution and its primary federal supervisory agency, the supervisory agency will require the institution to prepare its supervisory reports in accordance with the agency's interpretation.

reported at market value, with unrealized gains and losses recognized in current income. Prices used in periodic revaluations should be obtained from sources that are independent of the securities dealer doing business with the depository institution. When prices are internally estimated by the portfolio manager (when reliable external price quotations are not available), they should be reviewed by persons independent of the portfolio management function.

A pattern of intermittent sales transactions in the investment portfolio may suggest that securities ostensibly held as long-term portfolio assets are actually held for sale. Securities held for sale must be reported at the lower of cost or market value with unrealized losses (and recoveries of unrealized losses) being recognized in current income. It is an unsafe and unsound practice to report securities held for sale using reporting standards that are intended for securities held for investment purposes.

It is the substance of an institution's securities activities that determines whether securities reported as being held as investment portfolio assets are, in reality, held for trading or for sale. Examiners will particularly scrutinize institutions that exhibit a pattern or practice of reporting significant amounts of realized gains on sales from their investment portfolio and that have significant amounts of unrecognized losses. If in the examiner's judgment such a practice has occurred, some or all of the securities reported as held for investment will be designated as held for sale or for trading.

On the other hand, infrequent investment portfolio restructuring activities that are carried out in conjunction with a prudent overall business plan and that do not result in a pattern of gains being realized and losses being deferred on investment portfolio securities will generally be viewed as an acceptable investment practice. Such activities usually would not result in the redesignation of securities held for investment as securities held for trading or for sale.

A number of factors must be considered when evaluating whether the reporting of a depository institution's investment portfolio securities holdings is consistent with management's intent for such holdings. Some of the factors relating to investment portfolio securities for each reporting period include:

(1) The dollar amount of gains realized from sales in relation to the dollar amount of losses realized from

sales and in relation to unrealized losses for other investment portfolio securities;

(2) The dollar amount of gains and losses realized from sales in relation to net income and capital;

(3) The number of sales transactions resulting in gains and the number resulting in losses;

(4) The gross dollar volume of securities purchases and sales;

(5) The rapidity of turnover, including consideration of the length of time securities are owned prior to sale, the length of time securities are held after an unrealized gain is evident, and the remaining life of the security at the time of sale; and

(6) The reasons for the depository institution's engaging in specific transactions, and whether these reasons are consistent with the portfolio policy and strategies.

Some of the factors that also must be considered to evaluate the depository institution's ability to continue to hold investment portfolio securities include:

(1) The sources and availability of funding;

(2) The ability to meet margin calls and over-collateralization requirements related to leveraged holdings;

(3) Limitations such as capital requirements, the legality of certain securities holdings, liquidity requirements, legal lending limits, and prudential concentration limits; and

(4) The ability to continue as a going concern and to liquidate assets in the normal course of business.

Reporting of Loans Held for Sale or Trading

Historically, depository institutions have tended to hold loans until maturity. Consequently, the application of lower of cost or market value accounting to portions of the loan portfolio has not been an issue except in those depository institutions that have regularly originated or purchased loans for purposes of subsequent sale. Nevertheless, as with debt securities, reporting loans at the lower of cost or market value is required when the institution does not have both the intent and ability to hold these loans for long-term investment purposes.

The factors listed above should also be considered when evaluating whether the reporting of loans is consistent with management's intent and ability to hold the loans. A pattern of originating loans at yields below market and subsequently selling them at par once the yield approximates market is another factor that will be considered when evaluating management's intent.

Unsuitable Investment Practices

The following activities raise specific supervisory concerns. The first six practices are considered unsuitable when they occur in a depository institution's investment portfolio. Such practices should only be conducted in an appropriately controlled and segregated trading or held-for-sale portfolio. Practices seven and eight involve an institution's transfer of control over individual assets, segments of the portfolio, or the entire portfolio to persons or companies unaffiliated with the institution. In such situations, the depository institution clearly no longer has the ability to hold the affected securities for investment purposes and such securities should be reported as held for sale. The ninth practice is wholly unacceptable under all circumstances.

In addition, certain of the following practices may violate state law in certain states. State-chartered depository institutions are therefore cautioned to consult with their state supervisors.

1. "Gains Trading"

"Gains trading" is characterized by the purchase of a security as an investment portfolio asset and the subsequent sale of that same security at a profit after a short-term holding period. Securities that cannot be sold at a profit are retained as investment portfolio assets. These "losers" are retained in the investment portfolio because investment portfolio holdings are accounted for at amortized cost, and losses are normally not recognized unless the security is sold. Gains trading often results in a portfolio of securities with one or more of the following characteristics: Extended maturities, lower credit quality, high market depreciation, and limited practical liquidity. Frequent purchase and sale activity, combined with a short-term holding period for securities, clearly demonstrates management's intent to profit from short-term price movements. This indicates that other securities held in the investment portfolio may also be held for trading or for sale.

In many cases, "gains trading" involves the trading of "when-issued" securities, the use of "pair-off" transactions (including transactions involving off-balance sheet contracts), or "corporate" or "extended settlements" because these speculative practices afford an opportunity for substantial price changes to occur before payment for the securities is due.

2. "When-Issued" Securities Trading

"When-issued" securities trading is the buying and selling of securities in the period between the announcement of an offering and the issuance and payment date of the securities. A purchaser of a "when-issued" security acquires all the risks and rewards of owning a security and may sell the "when-issued" security at a profit before having to take delivery and pay for it. Purchases and subsequent sales of securities during the "when-issued" period may not be conducted in a bank's investment portfolio, but are regarded instead as a trading activity. FCUs unions engaging in "when-issued" trading must follow NCUA's regulation on cash forward agreements (see part 703 of the NCUA Rules and Regulations).

3. "Pair-Offs"

A "pair-off" is a security purchase transaction that is closed-out or sold at, or prior to, settlement date or expiration date. "Pair-offs" may also involve optional or mandatory off-balance sheet contracts (e.g., swaps, options on swaps, forward commitments, and options on forward commitments).

In a "pair-off," an investment portfolio manager will commit to purchase a security. Then, prior to the predetermined settlement date, the portfolio manager will "pair-off" the purchase with a sale of the same security prior to, or on, the original settlement date. Profits or losses on the transactions are settled by one party to the transaction remitting to the counterparty the difference between the purchase and sale price. Like "when-issued" trading, "pair-offs" permit an institution to speculate on securities price movements without having to pay for the securities. Such transactions are regarded as a trading activity. Pair-off transactions using cash forward agreements are impermissible for FCUs. Under part 703 of NCUA's Rules and Regulations, cash forward agreements (settlement occurring within 30-120 days) must be settled on a cash basis. Also, FCUs are not authorized to engage in interest rate swaps or to purchase caps, collars, floors, or similar instruments (see part 703 of the NCUA Rules and Regulations).

4. Corporate or Extended Settlements

Regular-way settlement for transactions in U.S. Government and Federal agency securities (other than mortgage-backed and derivative products) is one business day after the trade date. Regular-way settlement for corporate and municipal securities and

stripped U.S. Treasury securities and similar products is five business days after the trade date. In addition, regular-way settlement for transactions in mortgage-backed and mortgage derivative products varies and can be up to 45 to 60 days after the trade date.

The use of an extended or corporate settlement method for U.S. Government securities purchases and an extended settlement period (more than 5 business days) for stripped U.S. Treasury securities and similar products appears to be offered by securities dealers in order to facilitate speculation on the part of the purchaser, similar to the profit opportunities available in a "pair-off" transaction. The use of a settlement period in excess of the regular-way settlement period appropriate for an instrument and, in any event beyond 60 days, in order to facilitate speculation is considered a trading activity.

5. Repositioning Repurchase Agreements

A repositioning repurchase agreement is a funding technique often used by dealers who encourage speculation through the use of "gains trading," "pair-off," "when-issued trading," and "corporate or extended settlement" transactions for securities which cannot be sold at a profit. The repositioning repurchase agreement is a service provided by the dealer so the buyer can hold the speculative position until it can be sold at a gain. The buyer purchasing the security pays the dealer a small "margin" that approximates the actual loss in the security. The dealer then agrees to fund the purchase of the security by buying it back from the purchaser under a resale agreement. Any dealer financing technique such as a repositioning repurchase agreement that is used to fund the speculative purchase of securities may be indicative of securities that were acquired with the intent to resell at a profit at or prior to settlement or after a short-term holding period. This activity is inherently speculative and is a wholly unsuitable investment practice for depository institutions. Securities acquired in this manner should be reported as either trading account assets or as securities held for sale.

6. Short Sales

A short sale is the sale of a security that is not owned. The purpose of a short sale generally is to speculate on the fall in the price of the security. Short sales are transactions that should be conducted as a trading activity and, when conducted in the investment portfolio, they are considered to be unsuitable.

A short sale that involves the delivery of the security sold short by borrowing it from the depository institution's investment portfolio should not be reported as a short sale. Instead, it should be reported as a sale of the underlying security with a gain or loss recognized. Short sales that do not involve the delivery of the security sold short by borrowing it from the investment portfolio are impermissible activities for FCUs (see part 703 of the NCUA Rules and Regulations).

7. Delegation of Discretionary Investment Authority

Some depository institutions have delegated the purchase and sale authority for all or a portion of their investment securities portfolio to a non-affiliated firm or to an individual who is not an employee of the institution or one of its affiliates. Such a delegation of authority is intended to obtain a higher total return on the portfolio than the institution would realize if it managed the portfolio itself. When an institution has delegated such authority to a non-affiliated firm or to one or more individuals who are not employees of the depository institution or its affiliates, then the depository institution no longer has the ability to control its own securities and all holdings for which such authority has been delegated must be reported as held for sale.

The centralized management of investment portfolios of affiliated depository institutions by the parent holding company or another affiliate is not ordinarily considered to be the delegation of investment authority.

Investment authority will also not be considered delegated to unaffiliated parties when a depository institution's portfolio manager is required to authorize a recommended purchase or sale transaction prior to its execution and the portfolio manager, in practice, reviews such recommendations and does, in fact, authorize such transactions.

8. Covered Calls

The writing of covered calls is an option strategy that, for a fee, grants the buyer of the call option the right to purchase a security owned by the option writer at a predetermined price before a specified future date. The option fee³ received by the writing (selling) depository institution provides income and has the effect of increasing the

³ Recognition of option fee income should be deferred until the option is exercised or expires. The covered call writer shall value the option at the lower of cost or market value at each report date.

effective yield on the portfolio asset "covering" the call.

Covered call programs have been promoted as hedging strategies because the fee received by the writer can be used to offset a limited amount of potential loss in the price of the underlying security. If interest rates rise, the call option fee can be used to partially offset the decline in the market value of a fixed rate security or the increased cost of market rate liabilities used to carry the security. However, there is no assurance that an option fee will completely offset the price decline on the security or the increased cost of liabilities and the resulting reduced spread between the institution's return on assets and funding costs.

As a practical matter, the gain on a security covered by a written call is limited to the amount of the difference between the carrying value of the security and the strike price at which the security will be called away. The potential for losses on the covered security is not similarly limited. In an effort to obtain higher yields, some portfolio managers have mistakenly relied on the theoretical hedging benefits of covered call writing, and have purchased extended maturity U.S. government or Federal agency securities. This practice can significantly increase risks taken by the depository institution by contributing to a maturity mismatch between its assets and its liabilities.

Institutions should only initiate a covered call program for securities when the board of directors or an appropriate board committee has specifically approved a policy permitting this activity. This policy must set forth specific procedures for controlling covered call strategies, including recordkeeping, reporting and review of activity, as well as providing for appropriate management information systems to report the results. Since the purchaser of the call inquires the ability to call the security away from the institution that writes the option, the ability of that institution to continue to hold the security rests with an outside party. Securities held for investment against which call options have been written should therefore be redesignated as held for sale and reported at the lower of cost or market value.

However, if an option contract requires the writer to settle in cash, rather than by delivering an investment portfolio security, the institution writing the option maintains the ability to hold the security and, thus, the security may be reported as an investment. In this case, the option must still be reported at the lower of cost or market value.

Covered call writing (referred to as "purchasing or selling a standby commitment" in part 703 of the NCUA Rules and Regulations) is an impermissible activity for FCUs (see part 703 of the NCUA Rules and Regulations).

9. "Adjusted Trading"

"Adjusted trading" is a practice involving the sale of a security to a broker or dealer at a price above the prevailing market value and the simultaneous purchase and booking of a different security, frequently a lower grade issue or one with a longer maturity, at a price greater than its market value. Thus, the broker or dealer is reimbursed for losses on the purchase from the institution and ensured a profit. Such transactions inappropriately defer the recognition of losses on the security sold and establish an excessive reported value for the newly acquired security. Consequently, such transactions are prohibited and may be in violation of 18 U.S.C. 1001-False Statements or Entries and 1005-False Entries. For FCUs, such transactions are also prohibited under part 703 of the NCUA Rules and Regulations.

Section III: Mortgage Derivative Products, Other Asset Backed Products, and Zero-Coupon Bonds⁴

Summary

Mortgage derivative products include Collateralized Mortgage Obligations ("CMOs"), Real Estate Mortgage Investment Conduits ("REMICs"), CMO and REMIC residuals, and Stripped Mortgage-Backed Securities ("SMBs"). The cash flows from the mortgages underlying these securities are redirected to create two or more classes with different maturity or risk characteristics designed to meet a variety of investor needs and preferences.

Some mortgage derivative products exhibit considerably more price volatility than mortgages or ordinary mortgage pass-through securities and can expose investors to significant risk of loss if not managed in a safe and sound manner. This price volatility is caused in part by the uncertain cash

flows that result from changes in the prepayment rates of the underlying mortgages.

In addition, because these products are complex, a high degree of technical expertise is required to understand how their prices and cash flows may behave in various interest rate and prepayment environments. Moreover, because the secondary market for some of these products is relatively thin, they may be difficult to liquidate should the need arise. Finally, there is additional uncertainty because new variants of these instruments continue to be introduced and their price performance under varying market and economic conditions has not been tested.

A general principle underlying this section is that mortgage derivative products possessing average life or price volatility in excess for a benchmark fixed rate 30-year mortgage-backed pass-through security are "high-risk mortgage securities" and are not suitable investments. All high-risk mortgage securities, as defined in detail below, acquired by a depository institution after the effective date of this policy statement must be carried in the institution's trading account or as assets held for sale. On the other hand, mortgage derivative products that do not meet the definition of a high-risk mortgage security at the time of purchase should be reported as investments, held-for-sale assets, or trading assets, as appropriate. Institutions must ascertain no less frequently than annually that such products remain outside the high risk category.

Institutions that hold mortgage derivative products that meet the definition of a high-risk mortgage security must do so to reduce interest rate risk in accordance with safe and sound practices.⁵ Furthermore, depository institutions that purchase high-risk mortgage securities must demonstrate that they understand and are effectively managing the risks associated with these instruments. Levels of activity involving high-risk mortgage securities should be reasonably related to an institution's

⁴ FCUs must comply with the rules and regulations governing mortgage-derivative products and zero coupon bonds in part 703 of the NCUA Rules and Regulations, rather than those set forth in section III of this policy statement. Where the rules set forth in section III of this policy statement are more restrictive than those in part 703, FCUs may choose to consult section III for further guidance. FCUs are not permitted to purchase Asset-Backed Securities (ABSs) where the security is supported by installment loans or leases or by revolving lines of credit.

⁵ Notwithstanding the provisions of this supervisory policy requiring the use of high-risk mortgage securities to reduce interest rate risk, this supervisory policy is not meant to preclude an institution with strong capital and earnings and adequate liquidity that has a closely supervised trading department from acquiring high-risk mortgage securities for trading purposes. The trading department must operate in conformance with well-developed policies, procedures, and internal controls, including detailed plans prescribing specific position limits and control arrangements for enforcing these limits.

capital, capacity to absorb losses, and level of in-house management sophistication and expertise. Appropriate managerial and financial controls must be in place and the institution must analyze, monitor, and prudently adjust its holdings of high-risk mortgage securities in an environment of changing price and maturity expectations.

Prior to taking a position in any high-risk mortgage security, an institution should conduct an analysis to ensure that the position will reduce the institution's overall interest rate risk. An institution should also consider the liquidity and price volatility of these products prior to purchasing them. Circumstances in which the purchase or retention of high-risk mortgage securities is deemed by the appropriate federal regulatory authority to be contrary to safe and sound practices for depository institutions will result in criticism by examiners, who may require the orderly divestiture of high-risk mortgage securities. Purchases of high-risk mortgage securities prior to the effective date of this policy statement generally will be reviewed in accordance with previously-existing supervisory policies.

Securities and other products, whether carried on or off the balance sheet (such as CMO swaps, but excluding servicing assets), having risk characteristics similar to high-risk mortgage securities will be subject to the same supervisory treatment as high-risk mortgage securities.

Long-term zero coupon bonds also exhibit significant price volatility and may expose an institution to considerable risk. Disproportionately large holdings of these instruments may be considered an imprudent investment practice, which will be subject to criticism by examiners. In such instances, examiners may seek the orderly disposal of some or all of these securities. Assets slated for disposal are reported as assets held for sale at the lower of cost or market value.

Overview of the Securities

A. SMBSs consist of two classes of securities with each class receiving a different portion of the monthly interest and principal cash flows from the underlying mortgage-backed securities ("MBS"). In its purest form, an MBS is converted into an interest-only ("IO") strip, where the investor receives all of the interest cash flows and none of the principal, and a principal-only ("PO") strip, where the investor receives all of the principal cash flows and none of the interest. IOs and POs have highly volatile price characteristics based, in

part, on the prepayment variability of the underlying mortgages. Therefore, IOs and POs will nearly always meet the definition of high risk in this policy.

From a market perspective, IOs and POs have relatively wide bid/ask spreads compared to mortgage-backed securities. This decreases the effectiveness of SMBSs as interest rate risk reduction tools from a price sensitivity perspective because interest rates and prepayments need to change by a significant amount before the price at which the security can be sold (i.e., the bid price) will exceed the price at which the security was purchased (i.e., the ask price).

B. CMOs and REMICs, hereinafter called CMOs, have been developed in response to investor concerns regarding the uncertainty of cash flows associated with the prepayment option of the underlying mortgagor. A CMO can be collateralized directly by mortgages, but more often is collateralized by MBSs issued or guaranteed by the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), or Federal Home Loan Mortgage Corporation (FHLMC) and held in trust for CMO investors. In contrast to MBSs where cash flows are received pro rata by all security holders, the cash flows from the mortgages underlying a CMO are segmented and paid in accordance with a predetermined priority to investors holding various CMO tranches. By allocating the principal and interest cash flows from the underlying collateral among the separate CMO tranches, different classes of bonds are created, each with its own stated maturity, estimated average life, coupon rate, and prepayment characteristics. Notwithstanding the importance of the CMO structure to an evaluation of the timing and amount of cash flows, it is essential to understand the coupon rates on the mortgages underlying the CMO to assess the prepayment sensitivity of the CMO tranches.

C. Residuals, in the traditional sense, are claims on any excess cash flows from a CMO issue or other asset-backed security remaining after the payments due to the holders of the other classes and after trust administrative expenses have been met.

The economic value of a residual is a function of the present value of the anticipated excess cash flows. These cash flows are highly sensitive to prepayments and existing levels of market interest rates, and the mortgages underlying the CMO must be understood in order to assess this sensitivity. Accordingly, most of these residuals meet the definition of high-risk in this

policy. Other factors affecting the market value of residuals include a lack of liquidity and a wide bid-ask price spread.

In addition, the 1986 legislation creating the REMIC structure requires that one class of each REMIC issue be designated the residual interest for tax purposes. Some of these REMIC residuals are not residuals in the traditional sense.

However, these REMIC residuals also are subject to this policy statement.

Definition of "High-Risk Mortgage Security"

In general, any mortgage derivative product that exhibits greater price volatility than a benchmark fixed rate thirty-year mortgage-backed pass-through security will be deemed to be high risk. For purposes of this policy statement, a "high-risk mortgage security" is defined as any mortgage derivative product that at the time of purchase, or at a subsequent testing date, meets any of the following tests.⁶ In general, a mortgage derivative product that does not meet any of the three tests below will be considered to be a "nonhigh-risk" mortgage security."

(1) Average Life Test

The mortgage derivative product has an expected weighted average life greater than 10.0 years.

(2) Average Life Sensitivity Test

The expected weighted average life of the mortgage derivative product:

- Extends by more than 4.0 years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points, or
- Shortens by more than 6.0 years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points.

(3) Price Sensitivity Test

The estimated change in the price of the mortgage derivative product is more than 17 percent, due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.⁷

⁶ When the characteristics of a mortgage derivative product are such that the first two tests cannot be applied (such as with IOs), the mortgage derivative product remains subject to the third test.

⁷ When performing the price sensitivity test, the same prepayment assumptions and same cash flows that were used to estimate average life sensitivity must be used. The only additional assumption is the discount rate assumption.

First, assume that the discount rate for the security equals the yield on a comparable average life U.S. Treasury security plus a constant spread. Then, calculate the spread over Treasury rates from the bid side of the market for the mortgage

Continued

In applying any of the above tests, all of the underlying assumptions (including prepayment assumptions) for the underlying collateral must be reasonable. All of the assumptions underlying the analysis must be available for examiner review. For example, if an institution's prepayment assumptions differ significantly from the median prepayment assumptions of several major dealers as selected by examiners, the examiners may use these median prepayment assumptions in determining if a particular mortgage derivative product is high risk.

The above tests may be adjusted in the event of a significant movement in market interest rates or to fairly measure the risk characteristics of new mortgage-backed products. Furthermore, each agency reserves the right to take such action as it deems appropriate to prevent circumvention of the definition of a high-risk mortgage security and other standards set forth in this policy statement.

Generally, a CMO floating-rate debt class will not be subject to the average life and average life sensitivity tests described above if it bears a rate that, at the time of purchase or at a subsequent testing date, is below the contractual cap on the instrument. (An institution may purchase interest rate contracts that effectively uncap the instrument.) For purposes of this policy statement, a CMO floating-rate debt class is a debt class whose rate adjusts at least annually on a one-for-one basis with the debt class's index. The index must be a conventional, widely-used market interest rate index such as the London Interbank Offered Rate (LIBOR). Inverse floating rate debt classes are not included in the definition of a floating rate debt class.

Supervisory Policy for Mortgage Derivative Products

Prior to purchase, a depository institution must determine whether a mortgage derivative product is high-risk, as defined above. A prospectus supplement or other supporting analysis that fully details the cash flows covering

each of the securities held by the institution should be obtained and analyzed prior to purchase and retained for examiner review. In any event, a prospectus supplement should be obtained as soon as it becomes available.

Nonhigh-Risk Mortgage Securities

Mortgage derivative products that do not meet the definition of high-risk mortgage securities at the time of purchase should be reported as investments, held-for-sale assets, or trading assets, as appropriate.

Institutions must ascertain and document prior to purchase and no less frequently than annually thereafter that nonhigh-risk mortgage securities that are held for investment remain outside the high-risk category. If an institution is unable to make these determinations through internal analysis, it must use information derived from a source that is independent of the party from whom the product is being purchased. Standard industry calculators used in the mortgage-related securities marketplace are acceptable and are considered independent sources. In order to rely on such independent analysis, institutions are responsible for ensuring that the assumptions underlying the analysis and the resulting calculation are reasonable. Such documentation will be subject to examiner review.

A mortgage derivative product that was not a high-risk mortgage security when it was purchased as an investment may later fall into the high-risk category. If this occurs, the mortgage derivative product must be redesignated as held for sale or trading. Once a mortgage derivative product has been designated as high-risk, it may be redesignated as nonhigh-risk only if, at the end of two consecutive quarters, it does not meet the definition of a high-risk mortgage security. Upon redesignation as a nonhigh-risk security, it does not need to be tested for another year.

High-Risk Mortgage Securities

An institution may only acquire a high-risk mortgage derivative product to reduce its overall interest rate risk. (Institutions meeting the guidance established in footnote 3 may also purchase these securities for trading purposes.) An institution that has acquired high-risk mortgage securities to reduce interest rate risk needs to manage its holdings of these securities because of their substantial prepayment and average life variability. Such management implies that the institution

does not have both the intent and ability to hold high-risk mortgage securities for long-term investment purposes. Accordingly, high-risk mortgage securities that are being used to reduce interest rate risk should not be reported as investments at amortized cost, but must be reported as trading assets at market value or as held-for-sale assets at the lower of cost or market value.

In appropriate circumstances, examiners may seek the orderly divestiture of high-risk mortgage securities that do not reduce interest rate risk. These securities must be reported as held-for-sale assets at the lower of cost or market value.

An institution that owns or plans to acquire high-risk mortgage securities must have a monitoring and reporting system in place to evaluate the expected and actual performance of such securities. The institution must conduct an analysis that shows that the proposed acquisition of a high-risk mortgage security will reduce the institution's overall interest rate risk. Subsequent to purchase, the institution must evaluate at least quarterly whether this high-risk mortgage security has actually reduced interest rate risk.

The institution's analyses performed prior to the purchase of high-risk mortgage securities and subsequently thereafter must be fully documented and will be subject to examiner review. This review will include an analysis of all assumptions used by management regarding the interest rate risk associated with the institution's assets, liabilities, and off-balance sheet positions. Analyses performed and records constructed to justify purchases on a post-acquisition basis are unacceptable and will be subject to examiner criticism. Reliance on analyses and documentation obtained from a securities dealer or other outside party without internal analyses by the institution are unacceptable and reliance on such third-party analyses will be subject to examiner criticism.

Management should also maintain documentation demonstrating that it took reasonable steps to assure that the prices paid for high-risk mortgage securities represented fair market value. Generally, price quotes should be obtained from at least two brokers prior to executing a trade. If, because of the unique or proprietary nature of the transaction or product, or for other legitimate reasons, price quotes cannot be obtained from more than one broker, management should document the reasons for not obtaining such quotes.

derivative product. Finally, assume the spread remains constant when the Treasury curve shifts up or down 300 basis points. Discounting the aforementioned cash flows by their respective discount rates estimates a price in the plus and minus 300 basis point environments.

The initial price will be determined by the offer side of the market and used as the base price from which the 17 percent price sensitivity test will be measured.

In addition, a depository institution that owns high-risk mortgage securities must demonstrate that it has established the following:

(1) A board-approved portfolio policy which addresses the goals and objectives the institution expects to achieve through its securities activities, including interest rate risk reduction objectives with respect to high-risk mortgage securities;

(2) Limits on the amounts of funds that may be committed to high-risk mortgage securities;

(3) Specific financial officer responsibility for and authority over securities activities involving high-risk mortgage securities;

(4) Adequate information systems;

(5) Procedures for periodic evaluation of high-risk mortgage securities and their actual performance in reducing interest rate risk; and

(6) Appropriate internal controls.

The board of directors, or an appropriate committee thereof, and the institution's senior management should regularly (at least quarterly) review all high risk mortgage securities to determine whether these instruments are adequately satisfying the interest rate risk reduction objectives set forth in the portfolio policy. The depository institution's senior management should be fully knowledgeable about the risks associated with prepayments and their subsequent impact on its high risk mortgage securities.

Failure to comply with this policy will be viewed as an unsafe and unsound practice.

Purchases of high-risk mortgage securities prior to the effective date of this policy statement generally will be viewed in accordance with previously existing supervisory policies.

Securities and other products, whether carried on or off the balance sheet (such as CMO swaps, but excluding servicing assets), having characteristics similar to those of high-risk mortgage securities will be subject to the same supervisory treatment as high-risk mortgage securities.

Supervisory Policy for Other Zero-Coupon, Stripped or Original Issue Discount (OID) Products

Zero-coupon, "stripped" and certain Original Issue Discount ("OID") securities are priced at large discounts to their face value prior to maturity and exhibit significant price volatility.

"Stripped" securities are the interest or principal portions of U.S. Government obligations (which are separated and sold to depository institutions in the form of stripped coupons or stripped

bonds (principal)), STRIPS, and such proprietary products as CATs and TIGRs.* Also, deep discount OID bonds have been issued by a number of municipal entities.

Although considered free from credit risk if issued directly by the U.S. Government, longer maturities of zero coupon, stripped, and deep discount OID products (generally, remaining maturities exceeding ten years) have displayed extreme price volatility. Therefore, disproportionately large long-maturity holdings of these instruments, in relation to the total investment portfolio or total capital of the depository institution, are considered an imprudent investment practice. Such holdings will be subject to criticism by examiners who may seek the orderly disposal of some or all of these securities. Securities slated for disposal must be reported as held-for-sale assets at the lower of cost or market value.

Other Considerations

Several states have adopted, or are considering, regulations that prohibit state-chartered banks from purchasing interest-only strips or other securities discussed above. Accordingly, state-chartered institutions should consult with their state regulator concerning the permissibility of these purchases.

Cancellation

Interpretive Ruling and Policy Statement No. 88-1; Policy on Selection of Securities Dealers and Unsuitable Investment Practices, dated June 10, 1988.

By the National Credit Union Administration Board on April 23, 1992.

Becky Baker,

Secretary of the Board.

[FR Doc. 92-12140 Filed 5-26-92; 8:45 am]

BILLING CODE 7535-01-M

* STRIPS (Separate Trading of Registered Interest and Principal of Securities) is the U.S. Treasury program that permits separate trading and ownership of the interest and principal payments on certain long-term U.S. Treasury note and bond issues that are maintained in the book-entry system operated by the Federal Reserve Banks. CATs (Certificates of Accrual on Treasury Securities) and TIGRs (Treasury Investment Growth Receipts) are proprietary names for a form of coupon stripping that has been developed by securities firms. The securities firm purchases U.S. Treasury securities, delivers them to a trustee, and sells receipts representing the rights to future interest and/or principal payments from the U.S. Treasury securities held by the trustee.

DEPARTMENT OF TRANSPORTATION Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-70; Special Conditions No. 25-ANM-56]

Special Conditions: British Aerospace HS 125-700A Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for certain British Aerospace HS 125-700A airplanes modified by ElectroSonics Division of AiRadio, Inc. These airplanes are equipped with high-technology digital avionics systems that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is May 18, 1992. Comments must be received on or before July 13, 1992.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-70, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked Docket No. NM-70. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Gary Lium, FAA, Standardization Branch, ANM-113, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-1112.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or

arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-70." The postcard will be date stamped, and returned to the commenter.

Background

On March 30, 1992, ElectroSonics Division of AiRadio, Inc. applied to the FAA Chicago Aircraft Certification Office for a supplemental type certificate (STC) to modify certain HS 125-700A airplanes. The HS 125-700A are two flightcrew, two-engine airplanes, each with a maximum takeoff weight of up to 25,500 lbs. The proposed modification incorporates the installation of an Electronic Flight Instrument System (EFIS). The equipment originally installed in these airplanes presented the required information in the form of analog displays. The information presented is flight critical. The EFIS as a digital system is vulnerable to high-intensity radiated fields external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.101, ElectroSonics Division must show that the modified HS 125-700A airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A3EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis."

The regulations incorporated by reference in Type Certificate No. A3EU include part 10 of the Civil Air Regulations (CAR). This certification is equivalent to CAR 4b dated December 1953, as amended by Amendment 4b-1 through Amendment 4b-11, exclusive of

CAR 4b 350(e), and includes Special Regulation SR 422B. In addition, the certification basis includes certain later amendments to part 25 that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the modified HS 125-700A airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established by the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, these special conditions require that new technology electrical and electronic systems, such as the EFIS, be designed and installed to preclude component damage and interruption of function due to HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10-500 KHz.....	60	60
500-2000 KHz.....	80	80
2-30 MHz.....	200	200
30-100 MHz.....	33	33
100-200 MHz.....	150	33
200-400 MHz.....	56	33
400-1000 MHz.....	4,020	935
1-2 GHz.....	7,850	1,750
2-4 GHz.....	6,000	1,150
4-6 GHz.....	6,800	310
6-8 GHz.....	3,600	666
8-12 GHz.....	5,100	1,270
12-18 GHz.....	3,500	551
18-40 GHz.....	2,400	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Conclusion

This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may have

not been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Final Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the modified British Aerospace HS 125-700A airplanes:

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition: *Critical Function.* Function whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 18, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-12282 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8413]

RIN 1545-AG95

Reduction of Tax Overpayments by Amount of Past-Due, Legally Enforceable Debt Owed to a Federal Agency; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8413), which were published in the Federal Register Wednesday, April 15, 1992, (57 FR 13035). This document contains final regulations under section 6402(d), which permits the Service to reduce the amount of any overpayment payable to a taxpayer by the amount of a past-due, legally enforceable debt owed to any Federal agency, and under section 6402(e), which limits the review of such reductions.

EFFECTIVE DATE: April 15, 1992.

FOR FURTHER INFORMATION CONTACT: Rochelle L. Pickard 202-566-3637, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend the Procedure and Administration Regulations (26 CFR part 301), to provide rules under section 6402 (d) and (e) of the Internal Revenue Code of 1986 (the "Code"), relating to the authority to make credits or refunds.

Need for Correction

As published, T.D. 8413 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8413), which was the subject of FR Doc. 92-8569, is corrected as follows:

1. On page 13036, column 3, in the preamble under the heading "Response to Public Comments", second line from the bottom of the column, the language "\$ 301.6402-6(c) (2), (3), and (5) requires" is corrected to read "\$ 301.6402-6(c) (2), (3), and (6) requires".

2. On page 13037, column 2, in the preamble under the heading "Response to Public Comments", second line from the bottom of the column, the language "agencies, the Service, and the Federal" is corrected to read "agencies, the Service, and the Financial".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-12249 Filed 5-26-92; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2617

Determination of Plan Sufficiency and Termination of Sufficient Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises subpart E of 29 CFR part 2617 to impose certain notice requirements on plan administrators of plans undergoing standard terminations pursuant to title IV of the Employee Retirement Income Security Act of 1974, as amended. Plan administrators will be required to inform both plan participants and the Pension Benefit Guaranty Corporation of the identity of the insurer or insurers from whom irrevocable commitments may be purchased no later than 45 days before the distribution of plan assets. This rule is needed because the recent financial difficulties of certain insurers have heightened public concern over the potential risks faced by participants in terminating pension plans whose benefits are to be provided through irrevocable commitments.

EFFECTIVE DATE: This rule is effective June 26, 1992.

FOR FURTHER INFORMATION CONTACT: Angela J. Arnett, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8850 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On November 15, 1991, the Pension Benefit Guaranty Corporation ("PBGC") published in the Federal Register both an interim rule and a proposed rule relating to the procedures to be followed by plan administrators terminating a pension plan in a standard termination under section 4041 of title IV of the Employee Retirement Income Security Act of 1974, as amended by the Single-Employer Pension Plan Amendments Act of 1986, the Pension Protection Act (subtitle D of title IX of OBRA 1987), and subtitle H of title VI of OBRA 1989, 29 U.S.C. 1301-1461 ("ERISA").

The interim rule, which became effective December 16, 1991, requires plan administrators to inform participants (and other affected parties), in the notice of intent to terminate issued to begin a standard termination, that all benefit liabilities with respect to each participant will be provided and that the PBGC's guarantee is

extinguished with respect to a participant upon distribution of plan assets in full satisfaction of that participant's benefit liabilities. See 56 FR 57980 (November 15, 1991), as corrected, 56 FR 66482 (December 23, 1991).

The proposed rule provided that, if any plan benefits may be provided through the purchase of irrevocable commitments (annuity contracts), plan administrators must include, in the notice of intent to terminate issued to plan participants (and other affected parties), the name and address of the insurer or insurers from whom they intend to purchase the irrevocable commitments. The proposed rule further provided that, if the identity of the insurer or insurers is not then known, plan administrators must issue a supplemental notice to affected parties no later than 45 days before the distribution of plan assets, identifying the insurer or insurers from whom, or (if not then known) the insurer or insurers from among whom, they intend to purchase the irrevocable commitments. A similar notice concerning the identity of the insurer or insurers would have to be filed with the PBGC, either when the standard termination notice is filed or with a supplemental notice. See 54 FR 58014 (November 15, 1991).

The PBGC received seven comments on the proposed rule. Four of the commenters also addressed the interim rule. (The PBGC was not required to, and did not, solicit comment on the interim rule. However, the PBGC will nonetheless respond to the comments it received.) A discussion of the comments received and the changes made in this final rule follows. (The PBGC is issuing both the interim and the proposed rules in final form today, and expects to incorporate the substance of both into its final termination regulations to be issued shortly.)

Interim Rule

One commenter objected to the notice requirement on the grounds that the PBGC's guarantee is not extinguished upon distribution of plan assets in a standard termination by the purchase of irrevocable commitments from an insurer. The PBGC disagrees. Under ERISA, when plan assets have been distributed in a standard termination, the plan's benefit liabilities have been satisfied, and the PBGC's guarantee therefore ends. (For a detailed discussion of the reasons the PBGC is not authorized to guarantee benefits provided under irrevocable commitments purchased for participants in terminating plans, see the Advance Notice of Proposed Rulemaking

published by the PBGC on June 21, 1991 (56 FR 28642).)

A second commenter expressed approval of the interim rule without further discussion. The other two commenters, while expressing no opinion on the validity of the statement concerning the extinguishment of the PBGC's guarantee, noted that it is not universally accepted. Both suggested that the interim rule provide that plan administrators state only that it is "the PBGC's position" that the guarantee is extinguished. The PBGC does not believe it would be appropriate to give participants any reason to believe that the PBGC may continue to guarantee their benefits after distribution of their benefit liabilities, and therefore has not adopted this suggestion.

One of the latter two commenters also suggested that the extent of the PBGC's benefit guarantee should be explained in order for the statement of its extinguishment to be meaningful. The PBGC does not believe that this information will be routinely needed by participants, and thus is not requiring it as part of the notice. However, the interim rule does not preclude a plan administrator from including in the notice appropriate information that would add to participant's understanding of the effects of plan termination.

Finally, one of the commenters objected to the inclusion in the definition of "affected party" of a "former employee organization" that represented plan participants within the past five years, suggesting that there would be no reason for such an organization to assist participants and that, in any event, a five-year look-back period is too long. The PBGC disagrees. As noted in the preamble to the interim regulation, the PBGC included such former employee organizations in the definition in response to a comment it received on the proposed termination regulations published September 2, 1987 (52 FR 3318). That commenter had noted that an employee organization may, in many instances, negotiate benefit programs that extend beyond the life of a particular collective bargaining agreement and may continue to give assistance with respect to that particular program although not currently representing the participants. The PBGC has clarified the definition in this final rule to provide that a former employee organization is an affected party only if there is no employee organization currently representing participants. The PBGC does not believe that five years is an unreasonable look-back period in such circumstances.

Proposed rule

The majority of commenters supported the PBGC's proposal requiring that participants be given advance information concerning the identity of the insurer or insurers from whom annuity contracts may be purchased. However, two commenters objected to the requirement, one based on a misinterpretation of the rule (as discussed below) and the other based on concerns (also discussed below) that the insurer information might cause participants to worry needlessly or to elect to receive their benefits in lump sum form. Finally, several of the commenters requested clarification of certain aspects of the proposed rule.

Many of the comments raised questions about the effect the rule might have on participants, on plan administrators, or on the annuity purchase process.

Two commenters questioned the wisdom of giving insurer information to participants, noting that it could lead them to worry needlessly or to elect lump sum benefits more often, even where the insurer is a sound company. In view of the amount of publicity currently surrounding the financial difficulties of certain insurers (most notably the Executive Life Insurance Company) and their impact on pension benefits, the PBGC does not believe that lack of information will lessen participants' worries or that the giving of information will increase them. Further, if a plan provides a lump sum option, it is important that the participant be given full information in order that he or she may make an informed election.

One commenter was concerned that the rule might suggest that participants have "a right to influence plan fiduciaries' decisions in the selection of an insurer," and that the plan administrator would feel the need to respond to every participant concern whether or not it is legitimate. Another commenter was concerned that plan administrators might be faced with participant requests that a specific insurer be used, perhaps with different participants requesting different insurers or participants requesting insurers for reasons unrelated to financial strength and stability (e.g., the insurer's social investment philosophy). The same commenter was concerned that the rule might imply that participants who were unhappy with the insurer that is ultimately selected could somehow have the purchase of an irrevocable commitment "undone," or could cause the PBGC to refuse to process the

termination as required under ERISA section 4041.

As discussed in the preamble to the proposed rule (56 FR 58016), participants who have concerns about the insurer from whom their plan administrator intends to purchase their annuity contracts may have a number of alternatives. For example, if they believe their plan administrator is not fulfilling his or her fiduciary obligations, they may wish to pursue their private rights of action under title I of ERISA, and they should be given adequate information to permit informed decisions concerning whether to do so. However, the PBGC did not intend for this rule to provide participants with any new remedies; rather, as stated in the preamble, the purpose of the rule was to "maximize the effectiveness of existing participant protections."

In response to the concern about the impact of a participant challenge on the PBGC's processing of a standard termination, the PBGC notes that failure to include the required information in the NOIT (or a supplemental notice, if one is needed) will result in the issuance of a notice of noncompliance pursuant to ERISA section 4041(b)(2)(C). However, the fact that a participant challenges a proposed insurer selection after receiving that information is not grounds for issuance of a notice of noncompliance. Accordingly, any such challenge will not delay the PBGC's processing of a standard termination, if the requirements for a standard termination under section 4041 have otherwise been met.

The proposed rule (§ 2617.42(e)(2)) permitted the plan administrator to provide a list of insurers in the supplemental notice (to be given no later than 45 days before distribution of plan assets) if the specific intended insurer or insurers was not yet known. Three commenters commended the PBGC for permitting such a list in the supplemental notice. One stated that this rule "will allow participants a sufficient amount of time to question a potential insurer selection without causing undue hardship and disruption to the annuitization process."

According to one of the commenters, in a typical annuitization process, the plan administrator (often assisted by a consultant) draws up a list of possible insurers and may request illustrative bids to narrow the list. Once the insurer universe is determined, one or more rounds of bids are solicited and the purchase decision is made, often "within hours" after an offer is received since offers generally are held open for no longer than one day. Several commenters expressed concern that the

annuity purchase process would be disrupted if the PBGC imposed a requirement that the specific intended insurer (rather than a list of insurers) be identified no later than 45 days before distribution.

A number of these commenters, including one who objected to the rule in its entirety, misinterpreted the proposed rule as containing such a requirement. The proposed rule did not permit a list of insurers in the NOIT, but did permit a list in a supplemental notice. (The PBGC was concerned that, where the plan administrator had not identified a specific intended insurer (e.g., the insurer the plan routinely purchases annuity contracts from) by the time of issuance of the NOIT, a list at the NOIT stage may be premature.)

In light of the comments received, however, and to resolve any ambiguities, the PBGC has revised the final rule to make it clear that a list of insurers is permissible whenever the specific intended insurer is not known, including at the NOIT stage. (The PBGC is making a similar change with respect to the notice to the PBGC of the insurer's identity at the standard termination notice stage.) The PBGC notes, however, that any list of insurers should be reasonable in number and include only those insurers from whom the plan administrator has solicited, or reasonably intends to solicit, actual bids.

One commenter was concerned that the rule might be interpreted to apply to annuity contracts purchased prior to termination, including those used as funding vehicles by the plan. The rule applies only to annuity contracts that may be purchased as part of a distribution made pursuant to or in furtherance of a plan termination. (The PBGC cautions that any premature distribution of plan assets in furtherance of plan termination is a violation of ERISA section 4041(b)(2)(D); PBGC expects to include, in its final regulation on standard termination, rules clarifying what distributions in the "normal course of business" may be continued after termination of a plan is begun.) The Department of Labor, rather than the PBGC, has jurisdiction over the reporting and disclosure requirements applicable to ongoing plans.

Executive Order 12291 and the Regulatory Flexibility Act

The PBGC has determined that this final rule is not a "major rule" for the purposes of Executive Order 12291 because it will not have an annual effect on the economy of \$100 million or more; create a major increase in costs or prices for consumers, individual

industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act of 1980 that these rules will not have a significant economic impact on a substantial number of small entities. The costs attendant to including the required statements in a notice of intent to terminate for small pension plans (those with fewer than 100 participants) will be insignificant since the notice must be prepared under the statutory provisions and the inclusion of this additional information will require minimal time and expense. If the information must be provided at a later date, the regulation would permit it to be included with notices that are required under other statutory or regulatory provisions, thus making the cost minimal. Therefore, compliance with sections 603 and 604 of the Act is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this regulation, as amended by a "Notice of Interim Procedures" (51 FR 12491, April 10, 1986) and a "Notice of Revised Termination Rules" (53 FR 1904, January 22, 1988), and as included in PBGC Forms 500 and 501, have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) for use through December 31, 1992, OMB control number 1212-0036.

List of Subjects in 29 CFR Part 2617

Employee benefit plans, Pension insurance, Pensions, Reporting requirements.

In consideration of the foregoing, the PBGC amends subpart E of part 2617 of subchapter C of chapter XXVI, title 29, Code of Federal Regulations, in the following manner:

PART 2617—[AMENDED]

1. The authority citation for part 2617 continues to read to follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, and 1344.

2. Part 2617 is amended to revise subpart E as follows:

Subpart E—Notice of Intent To Terminate and Notice to PBGC of Insurer Selection in Standard Termination

Sec.

- 2617.40 Purpose and scope.
 2617.41 Definitions.
 2617.42 Notice of intent to terminate.
 2617.43 Notice to PBGC of insurer selection.

Subpart E—Notice of Intent To Terminate and Notice to PBGC of Insurer Selection in Standard Termination**§ 2617.40 Purpose and scope.**

(a) *Purpose.* The purpose of this subpart is to prescribe minimum rules for the contents of and procedures for issuance of the notice of intent to terminate a single-employer defined benefit pension plan in a standard termination, and to prescribe rules for the plan administrator to file with the PBGC a notice identifying the insurer or insurers from whom the plan administrator intends to purchase irrevocable commitments to provide benefits under the terminating plan.

(b) *Scope.* This subpart applies to any single-employer plan covered under section 4021(a) of the Act and not excluded by section 4021(b) for which a notice of intent to terminate in a standard termination is issued on or after the effective date of this subpart.

§ 2617.41 Definitions.

For purposes of this subpart:

Affected party means, with respect to a terminating plan—

- (1) Each participant;
- (2) Each beneficiary of a deceased participant;
- (3) Each alternate payee under an applicable qualified domestic relations order (as defined in section 206(d)(3) of the Act);
- (4) Each employee organization that currently represents any group of participants; and
- (5) For any group of participants not currently represented by an employee organization, the employee organization, if any, that last represented such group of participants within the 5-year period preceding issuance of the notice of intent to terminate.

In connection with any notice required under this subpart, if an affected party has designated in writing another person to receive the notice, then any reference to the affected party shall be deemed to refer to the designated person.

Benefit liabilities means the benefits of participants and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986).

Date of distribution means—

(1) For benefit liabilities provided through the purchase of irrevocable commitments, the date on which the obligation to provide the benefit passes from the plan to the insurer; and

(2) For benefit liabilities provided other than through the purchase of irrevocable commitments, the date on which total benefit liabilities are delivered to the participant or beneficiary (or to another plan or benefit arrangement or other recipient authorized by the participant or beneficiary in accordance with applicable law and regulations) personally or by deposit with a mail or courier service (as evidenced by a postmark or written receipt).

Irrevocable commitment means an obligation by an insurer to pay benefits to a named participant or beneficiary, if the obligation cannot be cancelled under the terms of the insurance contract (except for fraud or mistake) without the consent of the participant or beneficiary and is legally enforceable by the participant or beneficiary.

Notice of intent to terminate means the 60-day advance notice to affected parties advising of a proposed plan termination, as required by section 4041(a)(2) of the Act.

Proposed termination date means the date specified as such by the plan administrator in a notice of intent to terminate.

Standard termination means the voluntary termination, in accordance with section 4041(b) of the Act, of a single-employer plan that is sufficient for benefit liabilities (determined as of the termination date) when the final distribution of assets occurs.

Standard termination notice means the notice provided to the PBGC as required by section 4041(b)(2)(A) of the Act. PBGC Form 500 is the standard termination notice.

§ 2617.42 Notice of intent to terminate.

(a) *General rule.* At least 60 days before the proposed termination date of a plan to which this subpart applies, the plan administrator shall issue a notice of intent to terminate to each affected party containing all of the information specified in paragraph (d) of this section.

(b) *Method of issuance.* The plan administrator shall issue the notice of intent to terminate to each affected party individually. Each notice shall be either hand delivered or delivered by first-class mail or courier service to the affected party's last known address.

(c) *When issued.* The notice of intent to terminate is deemed issued on the date on which it is handed to the affected party or deposited with a mail

or courier service (as evidenced by a postmark or written receipt).

(d) *Contents of notice.* The plan administrator may include in the notice of intent to terminate any information that the plan administrator deems necessary or advisable, and shall include the following:

(1) Information needed to identify the plan;

(2) A statement that a standard termination of the plan is intended and the proposed termination date;

(3) A statement that, in order to terminate in a standard termination, plan assets must be sufficient to provide all benefit liabilities under the plan with respect to each participant;

(4) A statement that, after plan assets have been distributed to provide all benefit liabilities with respect to a participant, either by the purchase of an irrevocable commitment or commitments from an insurer to provide benefits or by an alternative form of distribution provided for under the plan, the PBGC's guarantee with respect to that participant's benefit ends; and

(5) If distribution of benefits under the plan may be wholly or partially by the purchase of irrevocable commitments from an insurer, the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments; or

(6) If distribution of benefits under the plan may be wholly or partially by the purchase of irrevocable commitments from an insurer and the plan administrator has not identified an insurer or insurers at the time the notice of intent to terminate is issued, a statement that—

(i) Irrevocable commitments may be purchased from an insurer to provide some or all of the benefits under the plan,

(ii) The insurer or insurers have not yet been identified, and

(iii) They will be notified at a later date (but no later than 45 days before the date of distribution) of the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments.

(e) *Supplemental notice requirements.*

(1) The plan administrator shall issue a supplemental notice or supplemental notices to each affected party in accordance with the rules in paragraph (e)(2) of this section if—

(i) The plan administrator has not yet identified an insurer or insurers at the

time the notice of intent to terminate is issued, or

(ii) The plan administrator notifies affected parties of the insurer or insurers from whom (or from among whom) he or she intends to purchase the irrevocable commitments, either in the notice of intent to terminate or in a later notice, but subsequently decides to select another insurer.

(2) The plan administrator shall issue each supplemental notice in the manner provided in paragraphs (b) and (c) of this section no later than 45 days before the date of distribution and shall include the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments.

(3) Any supplemental notice or notices meeting the requirements of paragraph (e)(2) of this section shall be deemed a part of the notice of intent to terminate.

§ 2617.43 Notice to PBGC of Insurer Selection.

(a) *General rule.* Concurrently with the filing of the standard termination notice, the plan administrator shall file with the PBGC a statement as to whether any of the benefits of the terminating plan may be provided in annuity form and, if so, the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments.

Notwithstanding the preceding sentence, if the plan administrator has not yet identified the insurer or insurers at the time the standard termination notice is filed, the plan administrator shall instead notify the PBGC at a later date, but no later than 45 days before the date of distribution, of the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments.

(b) *Supplemental notice requirements.* A plan administrator who has notified the PBGC of the insurer or insurers from whom (or from among whom) he or she intends to purchase irrevocable commitments, either concurrently with the standard termination notice or in a later notice, and who subsequently decides to select another insurer, shall file a supplemental notice with the PBGC in accordance with the rules in paragraphs (b)(1) and (b)(2) of this section.

(1) Any supplemental notice shall include the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among

whom, the plan administrator intends to purchase irrevocable commitments.

(2) Any supplemental notice shall be filed with the PBGC no later than 45 days before the date of distribution.

(c) *Form of notice and identifying information.* Any notice or notices required to be filed with the PBGC pursuant to paragraphs (a) or (b) of this section shall contain information identifying the plan sponsor and the plan by name, address, and EIN/PN (including PBGC case number, if applicable) and may be in the form of a statement attached to the standard termination notice, if filed concurrently with that notice, or, if not, in the form of a letter addressed to: Pension Benefit Guaranty Corporation, COCD/Code 45000, 2020 K Street, NW., Washington, DC 20006.

(Approved by the Office of Management and Budget under control number 1212-0036.)

Issued in Washington, DC this 20th day of May, 1992.

Lynn Martin,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its chairman to issue this final rule.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

FR Doc. 92-12245 Filed 5-26-92; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 90-064]

RIN 2115-AD71

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: At the request of the Federal Highway Administration, the Maryland and Virginia Departments of Transportation, and the District of Columbia Department of Public Works, the Coast Guard is considering permanently changing the regulations governing operation of the Woodrow Wilson Memorial Bridge across the Potomac River, mile 103.8, at Alexandria, Virginia. The changes would further restrict openings of the drawbridge for vessel traffic to help alleviate highway traffic congestion while still providing for the reasonable

needs of navigation. This interim rule is being issued to avoid reverting to the existing permanent regulations while the Coast Guard analyzes and evaluates all comments and data received and then drafts a final permanent rule. This interim rule incorporates many suggestions that public response has indicated will further improve highway traffic conditions on the bridge while meeting the needs of navigation.

DATES: This rule is effective May 27, 1992 through December 31, 1992. Comments must be received on or before 31 July 1992.

ADDRESSES: Comments may be mailed to Commander (ob), Fifth Coast Guard District, 431 Portsmouth, VA 23704-5004. Comments may be hand delivered to this address, room 507, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The comments and other materials referenced in this notice will be available for inspection and copying at this address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

A Regulatory Impact Analysis has been included in the public docket for this rulemaking, and is available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 90-064) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period.

Regulatory Background

The Woodrow Wilson Bridge has operated under temporary deviations from the existing permanent regulations since June 1, 1991. These temporary deviations were issued for 60 day periods under the provisions of 33 CFR 117.43 to evaluate different alternative opening schedules being considered for a permanent change in the regulations. Six such temporary deviations were issued consecutively, and the last in the

series will expire on May 26, 1992. This last deviation specifically requested comments on the proposal to reissue it as this interim final rule to be effective until a new permanent rule is developed and published. The comment period expired on April 27, 1992. Five comments were received.

It should be noted that statistics obtained from the drawtender's logs, show that bridge openings have drastically been reduced as a result of the temporary regulations issued by the Coast Guard during the past two years. In 1990, bridge openings were reduced by 30% (347 openings) and in 1991 by 45% (276 openings) in comparison to the previous five years which averaged approximately 500 openings per year.

A Notice of Proposed Rulemaking (NPRM) for a new permanent rule was published in the *Federal Register* on December 20, 1991 (56 FR 66326). The comment period on the NPRM ended on February 3, 1992. Written comments were received from a total of 48 parties.

A public hearing on the NPRM was held by the Commander, Fifth Coast Guard District, on January 28, 1992, in Alexandria, Virginia. Oral comments were received from 25 speakers.

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M. K. Cain, Project Attorney.

Discussion of Comments

The Coast Guard received 5 responses to its request for comments on the temporary deviation from the existing rule that was in effect through May 26, 1992. Three were from associations, two of which represent recreational boaters, and one representing commercial ship pilots. A fourth came from a commercial interest which requires bridge openings on a regular basis. The fifth was from a coalition including several legislative representatives, a transportation planning group, trade representatives, an automobile association, state and local transportation departments, and others.

Only one comment, the commercial interest, specifically responded to our request for comments concerning the reissuing of the temporary deviation as an interim final rule. That comment strongly supported it. The Coast Guard has determined it appropriate to reissue this rule as an interim final rule with a definite termination date of December 31, 1992.

All five comments endorsed allowing recreational vessels to proceed through any drawbridge opening which occurs to allow a commercial vessel through the span. The Coast Guard agrees that this

is a good way to cut down on the number of individual openings for vessels. It should be noted that there has never been a prohibition against this practice. The trade off for less total openings would be a probable slight increase in the time the span is open to allow for additional vessels to pass with the commercial ship. Therefore, the rule has been modified to make it clear, as has been the practice, that recreational vessels may pass with commercial vessels, provided this can be accomplished without endangering either commercial or recreational vessels.

Four of the comments support the 2 hour advance notice, with the exception of the 4 hour advance notice required during the 10 a.m. to 2 p.m. weekday opening period for commercial vessels. The commercial interest expressed some concern that the 4 hour advance notice requirement may be too far in advance to pinpoint the precise arrival of a vessel. The coalition of government representatives commented that 24 hours would be a more appropriate amount of advance notice to alert the public of scheduled bridge openings.

The Coast Guard agrees that advance notice to the motoring public of bridge openings is desirable. The 4 hour notice for the midday opening period for commercial vessel openings appears to be reasonable, considering that notice at other times requires only 2 hours. In daylight, and within 4 hours of arrival, generally a vessel should be capable of a reasonably accurate prediction of its arrival time at the bridge. During other times of the day, when adverse conditions are more likely to occur, the advance notice requirement is still only 2 hours. Furthermore, 24 hours appears to be more notice than the average commuter would actually need, and unnecessarily burdens navigation on the river, especially commercial vessels. Because of weather conditions, tidal considerations and possible equipment or mechanical failure, it is impractical for a ship to provide 24-hour advance notice of a required bridge opening with any degree of accuracy or reliability. There may be safety hazards if large recreational boats that have relied on an inaccurate opening estimate are required to hover around the bridge for hours waiting for a commercial opening. Also, motorists will be even more frustrated and inconvenienced by advance notice that is inherently unreliable. Therefore, the Coast Guard will maintain the advance notice requirements as stated in the temporary rule.

One recreational boating association suggested that a closure period from 10

a.m. until midnight on weekdays would present an unnecessary burden on recreational boating day trips, particularly from April through October, the primary boating season. It was pointed out that a round trip on the same day, from moorings above the bridge to anywhere below the bridge, might require as much as 14 hours on the water with resulting fatigue and detriment to boating safety.

While the Coast Guard understands this comment, our investigation of the facts reveals that the boats that permanently moor above the bridge usually do not go below the bridge for round trip day cruises. They normally plan mini vacations and travel in groups, or else they sail the river above the bridge. Therefore, the Coast Guard does not see the benefit of adding a 9 p.m. opening on weekdays at a time when commuter traffic across the bridge, while on the decline, is still heavy enough to cause congestion during bridge openings.

One recreational boating association suggested the opening period from 12 midnight to 4 a.m. for recreational vessels on weekdays be extended one hour to 5 a.m.

The Coast Guard disagrees with this proposed change because it would bring potential openings of the drawbridge closer to recognized peak morning traffic hours. The recovery of smooth traffic flow across the bridge takes longer when the opening occurs closer to peak use periods. This change would make motor vehicle traffic problems potentially worse without bringing about a noticeable offsetting improvement in vessel use of the river.

The professional association commented that the change to the morning opening period for commercial vessels from 9 a.m. to 2 p.m. to the proposed 10 a.m. to 2 p.m. window would narrow the opportunity for deep draft vessels. This is a misperception on the part of the association. While the midday opening period does change to 10 a.m. to 2 p.m. vice 9 a.m. to 2 p.m., the morning opening period for commercial vessels is also extended by one hour from 4 a.m. to 5 a.m. Therefore, there will be no reduction in the number of hours during which commercial vessels may request openings. The change merely slips the window of opening opportunities forward by one hour. This association also suggested that commercial vessel traffic be given some sort of priority over recreational vessels in passing through the span. The bridge statutes do not differentiate between commercial and recreational vessels in meeting the reasonable needs of

navigation in the operation of drawbridges. Therefore, the order or priority of different types of vessels passing through the bridge is not an issue to be addressed in drawbridge regulation.

The coalition of government representatives suggested that the prohibition on weekday openings between 2 p.m. and 7 p.m. be extended to 8 p.m. to avoid conflict with peak commuting hours. The Coast Guard's analysis does not confirm that such an extension would produce improvement in motor vehicle traffic flow sufficient to offset the greater restriction on vessel navigation due to an increase in the closure period. This change could unduly burden navigation without producing an offsetting increase in motor vehicle convenience. All comments, of course, are still under active consideration by the Coast Guard as it develops a permanent opening regulation for this bridge.

Discussion of Interim Rule

This interim rule is being issued to allow the coast Guard time to conduct a thorough and systematic review and analysis of all comments and data received in connection with this rulemaking without having to issue additional temporary deviations every 60 days or revert to the current published regulations found in 33 CFR 117.255. The Coast Guard recognizes, in view of the growing needs of vehicular traffic in the Metropolitan Washington, DC area, it would not be in the public interest to revert to the existing regulations which provide for few restrictions on openings for vessels.

Since six different alternative opening schedules have been tested for 60 day periods since June 1, 1991, the Coast Guard sees no value in testing further alternative opening schedules for data collection on a temporary basis. Almost a year's worth of test data has been collected to study the impacts of various alternative opening schedules on both vehicular and vessel traffic. Also, to continue to develop and publish different opening schedules every 60 days may be confusing to both vehicular and vessel traffic, as well as to those officials responsible for operation of the drawbridge.

Since the NPRM drew 48 written responses, and the public hearing heard 25 speakers, the Coast Guard feels there is ample information and data that needs to be thoroughly reviewed in order to develop a valid permanent rule that will reasonably balance the competing needs of both modes of traffic. This interim rule will give the Coast Guard the time it needs to

conduct this review in an orderly fashion.

This interim rule has been selected to govern operation of the Woodrow Wilson drawbridge through December 31, 1992. It incorporates some of the most significant comments the Coast Guard has received concerning the hours of heaviest morning vehicular traffic and the effect that midday drawbridge openings for recreational vessels have on highway traffic. This schedule seeks to have drawbridge vessel closure periods relate more closely with the actual morning vehicular rush hour period and to virtually eliminate multiple, midday drawbridge openings. The Coast Guard expects this rule to greatly improve highway traffic use of the bridge without seriously impacting the needs of vessels.

A comment period was provided under the last temporary deviation, which was identical to this interim action. Interested parties were afforded the opportunity to evaluate and comment on the rule and our intent to publish the identical schedule as an interim rule of indefinite duration pending publication of a final rule establishing a permanent schedule. Though this proposal was accepted, the Coast Guard will make this reissue of the last temporary deviation effective only through December 31, 1991. If this rule results in an unforeseen disruption of traffic, it may be withdrawn sooner than the stated termination date. This interim rule is being made effective in less than 30 days because it serves the immediate interests of highway traffic with no expected significant adverse impacts on marine traffic. Further, because it is clear that it is not acceptable to revert to the existing permanent rule on the expiration of the current temporary deviation on May 26, 1992, and this rule merely extends the operating schedule provided by that deviation, the Coast Guard finds pursuant to 5 U.S.C. 553(d), that good cause exists for making this rule effective in less than 30 days after the date of publication in the Federal Register.

Regulatory Evaluation

This interim rule is considered to be not major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979) because of its temporary nature. The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations are interim in nature and will be withdrawn

upon termination. Since they are similar to the various temporary schedules that have been in effect since June 1, 1991, they are not expected to have any substantial effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations. As compared to the existing permanent schedule, the interim rule should substantially relieve vehicular traffic congestion, by restricting vessel openings, without a significant adverse effect on waterborne transportation.

Small Entities

Under the Regulatory Flexibility Act (50 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). In light of preliminary analysis of comments received on the preceding group of temporary rules, the NPRM, and the public hearing, the Coast Guard has determined that this interim rule will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that the interim rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment. The authority to regulate concerning the operating schedules of drawbridges is committed to the Coast Guard by statute. Therefore, the Coast Guard does not expect any preemption issues with respect to state actions on the same subject matter.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) (promulgation of drawbridge operating procedures) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.255 is amended by revising paragraphs (a)(2), (a)(3), and (a)(4) and by adding paragraph (a)(5) to read as follows:

§ 117.255 Potomac River.

(a) * * *

(2) Need not open:

(i) Except as provided in paragraphs (a)(1) and (2)(vi) of this section, for the passage of any vessel unless at least 2 hours advance notice is given to the bridge tender at (202) 727-5522.

(ii) For the passage of any vessel from 5 a.m. to 10 a.m. and from 2 p.m. to 7 p.m., on Mondays through Fridays other than Federal holidays.

(iii) For the passage of any vessel from 2 p.m. to 7 p.m. on Saturdays, Sundays, and Federal holidays.

(iv) For the passage of recreational vessels from 4 a.m. to 12 midnight with the exception of one opening at 10 a.m., if requested, on Mondays through Fridays other than Federal holidays.

(v) For the passage of recreational vessels from 6 a.m. to 12 midnight with the exception of one opening at 10 a.m., if requested, and one opening at 9 p.m., if requested, on Saturdays, Sundays, and Federal holidays.

(vi) For the passage of commercial vessels from 10 a.m. to 2 p.m., seven days a week, unless at least 4 hours advance notice is given to the bridge tender at (202) 727-5522.

(3) The bridge tender shall delay the 10 a.m. opening for recreational vessels for up to 4 hours, seven days a week, if he receives a request from a commercial vessel (with proper advance notice) to open the bridge between 10 a.m. and 2 p.m.

(4) Recreational vessels may pass through the bridge with commercial vessels during any opening for commercial vessels, provided it can be accomplished without endangering either commercial or recreational vessels.

(5) Paragraphs (a) (2), (3), and (4) of this section are effective from May 27, 1992 through December 31, 1992.

Dated: May 19, 1992.

W.T. Leland,

Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

[FR Doc. 92-12447 Filed 5-22-92; 2:38 pm]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5-91-031]

Drawbridge Operation Regulations; Bass River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Jersey Department of Transportation (NJDOT), the Coast Guard is changing the regulations governing the U.S. 9 bridge over Bass River, at mile 2.6 in new Gretna, New Jersey, by requiring that at least six hours advance notice is given, by commercial and recreational vessels. This change is being made because of a drastic decrease in requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective June 26, 1992.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator-NY, Fifth Coast Guard District, at (212) 668-7170.

SUPPLEMENTARY INFORMATION: Drafting Information: The drafters of this notice are Waverly W. Gregory Jr., Project Officer, and Lt. Monica L. Lombardi, Project Attorney, Fifth Coast Guard District.

Regulatory History

On August 21, 1991 the Coast Guard published proposed rules in the *Federal Register* (56 FR 41498) concerning this amendment. The Commander, Fifth Coast Guard District, also published the proposal as a Public Notice dated September 13, 1991. In each notice interested persons were given until October 7, 1991, to submit comments.

Background and Purpose

NJDOT requested a change to the regulation to require that a minimum of six hours notice be given at all times by commercial and recreational vessels to obtain an opening of the draw. The Coast Guard decided to issue the Notice of Proposed Rulemaking after NJDOT presented facts which revealed a drastic decrease in requests for bridge openings

during 1989-90 in which a total of six openings were performed.

Discussion of Comments

No comments were received. The enactment of the final rule should have no adverse impact on the mariners who use Bass River because in accordance with 33 CFR 117.55, NJDOT will be required to post signs advising mariners of the drawbridge operating regulations and who they should call for openings. Therefore, paragraph (c) of the proposed rule has been deleted. Furthermore, the proposed rule did not address the needs of vessels in distress. Paragraph (a) of the rule has been amended to allow for the passage of vessels in distress as soon after notification as possible.

Regulatory Evaluation

This action is considered to be non-major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This opinion is based on the fact that the regulation will not prevent mariners from transiting the bridge but just require advance notice for openings.

Small Entities

No comments were received concerning small entities or on the economic impact this rule would have on small entities. Since the impact on these regulations is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed under the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.g(5) of Commandant Instruction M16475.1B, this final rule is categorically excluded

from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying at Commander (ob), Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District, Bldg., 135A, second floor, Governors Island, NY 10004-5073.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.703 is revised to read as follows:

§ 117.703 Bass River.

The draw of the U.S. 9 bridge, mile 2.6, at New Gretna, shall operate as follows:

(a) The draw shall open on signal if at least six hours notice is given, except that public vessels of the United States, State and local vessels used for public safety, and vessels in distress shall be passed as soon as possible.

(b) The owners of this bridge shall provide and keep in good legible condition clearance gauges for the draw span with figures not less than 12 inches high designed, installed and maintained in accordance with the provisions of § 118.160 of this chapter.

Dated: April 7, 1992.

W.T. Leland,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 92-11178 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD2-90-04]

Regulated Navigation Area; Arkansas River, Mile 118.2 to 125.4, Vicinity of Little Rock, AR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) on the Arkansas River from mile 118.2 to mile 125.4, in the vicinity of Little Rock, Arkansas. This action will impose mandatory operating requirements during high flow periods in order to ensure the safety of vessels

transiting the area. This action has the potential to reduce the likelihood of a marine casualty, thus preventing loss of life and property, and harm to navigable waters, existing structures and the environment.

EFFECTIVE DATE: This rule becomes effective on June 26, 1992.

FOR FURTHER INFORMATION CONTACT: Commander J.D. Koski, Project Officer, (314) 539-2655.

SUPPLEMENTARY INFORMATION: On November 29, 1990, the Coast Guard published a notice of proposed rulemaking in the Federal Register at 55 FR 49538. Interested persons were invited to participate in this rulemaking by submitting written views, data or arguments no later than January 14, 1991. No public hearing was requested and no hearing was held. Three written comments were received.

Drafting Information

The drafters of this regulation are Commander J.D. Koski, Project Officer, Commander(m), Second Coast Guard District, Robert A. Young Federal Building, 1222 Spruce Street, room 2.102G, St. Louis, Missouri, 63103-2832; Lieutenant R.B. Litterell, Coast Guard Marine Safety Office, suite 1301, 200 Jefferson Avenue, Memphis, Tennessee, 38101-2300; and, Lieutenant M.A. Suire, Project Attorney, Commander(dl), Second Coast Guard District, Robert A. Young Federal Building, 1222 Spruce Street, room 2.102E, St. Louis, Missouri, 63103-2832.

Discussion of Regulation

This rule imposes mandatory operating restrictions on vessels transiting the Arkansas River between miles 118.2 and 125.4 during periods when the flow rate, as determined by the Army Corps of Engineers, reaches or exceeds 70,000 cubic feet per second (cfs) at the Murray Lock and Dam at mile 125.4 of the McClellan-Kerr Arkansas River Navigation System. Since 1982, 70,000 cfs at Murray Lock and Dam has been the benchmark for implementing a voluntary Vessel Management System (VMS) for the area over which an RNA is now imposed. The VMS as it was implemented, however, was more properly an RNA, as defined in 33 CFR part 165, subpart B. Accordingly, this action converts the VMS to an RNA with identical activation parameters and operating restrictions. Apart from the fact that the VMS was a voluntary program whereas the RNA imposes mandatory restrictions, vessel operators will experience no difference between the two approaches.

The VMS was established in cooperation with commercial interests due to the difficulties encountered by downbound vessels while navigating through the Baring Cross bridge at mile 119.6, the Junction bridge at mile 118.7, and the Rock Island railroad bridge at mile 118.2. Specifically, there are no tie-off areas above or between these bridges and there is insufficient room for maneuvering or turning about between the bridges. Once a downbound vessel is committed to a transit of the Little Rock Harbor and these bridges, the vessel cannot stop. While developing the regulated navigation area, the following organizations were contacted: Little Rock Corps of Engineers, Little Rock Port Commission, Jantran Inc., Arkansas River Co., Magnolia Marine Co., and Brent Transportation Inc. All parties contacted expressed no objection to the basic proposal and confirmed the need for operational limitations during high flow conditions.

Discussion of Comments

The three comments are addressed in turn.

Comment: In order to officially change the required operation of the drawbridges as proposed in [55 FR 49538], a change to 33 CFR 117 is required.

The Coast Guard agrees that the Notice of Proposed Rulemaking published on November 29, 1990, at 55 FR 49538, purported to impose requirements on drawbridges and drawtenders without changing the regulations in 33 CFR part 117. As a result of this comment, a companion rulemaking, Docket CGD2-91-03, addressing the operating requirements for drawbridges located in the RNA was published in the Federal Register on September 26, 1991, at 56 FR 48770. The comment period for this proposed rulemaking closed on November 12, 1991. Publication of the Final Rule for the RNA was delayed in order to develop and coordinate the complementary changes to 33 CFR 117.123. Since the drawbridge operation regulations are being amended to reflect the creation of the RNA, there is no need to address such regulations in this final rule. Consequently, all specific reference to drawbridge operations has been removed and a cross reference to 33 CFR 117.123 substituted.

Comment: Please exempt retractable boats from your regulations or modify your regulations so that we will not be in violation by not having the bridges opened when it is unnecessary.

While this rule contemplates that all vessels comply with the RNA regulations once the flow rate reaches 70,000 cfs, it does not contemplate opening a drawbridge where it is not necessary. If a vessel can operate in and transit the RNA in compliance with the regulations without requiring the drawbridges to be opened, then the drawbridges need not be opened. The changes to 33 CFR 117.123

published at 57 FR 1391 incorporate this common-sense approach. No changes to the RNA rule were deemed necessary as a result of this comment and none were made.

Comment: Any significant procedural changes that could impact the operation of towboats in this area should be prepared in draft and reviewed in detail by the major barge companies, the American Waterways Operators and the AR-OK Port Operators Association before the changes are made.

The Coast Guard believes that the spirit of this comment has been well-satisfied. There was extensive pre-rule consultation with a number of commercial and governmental entities addressing the change from a VMS to an RNA, and the differences between them. A Notice of Proposed Rulemaking was published in the *Federal Register* allowing all interested persons the opportunity to make their positions known. No changes to the proposed rule were deemed necessary as a result of this comment and none were made.

Economic Assessment and Certification

This regulation has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. In addition, this regulation is considered to be nonsignificant under the guidelines of DOT Order 2100.5 dated May 22, 1980, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted and is deemed unnecessary as the impact of this regulation is expected to be minimal. The above conclusions follow from the fact that this action simply codifies as an RNA the voluntary VMS used successfully since 1982 by the majority of vessel owners and operators transiting the regulated area. There is no reason to believe that codifying the existing operating limitations will significantly change the impact. Whatever impacts which may have occurred have been mollified by eight years of voluntary participation. Pursuant to 5 U.S.C. 601, et seq., Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment and Certification

This action has been reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2.B.2.c. of the NEPA Implementing Procedures, COMDTINST M16475.1B. A copy of the Categorical Exclusion Document is available for review in the docket.

Federalism Assessment and Certification

This action has been analyzed in accordance with the principles and criteria outlined in Executive Order 12612. It has been determined that this action does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

This regulation will codify operating restrictions and procedures which have been voluntarily followed by vessel operators transiting the area during high flow conditions for the past eight years. There will, therefore, be no immediate change on local operations or existing state or local ordinances and regulations. This rule will, after its effective date, preempt any future state or local rule or ordinance conflicting with these requirements.

Collection of Information

This proposal contains no collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Section 165.203 is added to read as follows:

§ 165.203 Arkansas River, Mile 118.2 to 125.4, Little Rock Arkansas—Regulated Navigation Area.

(a) Location. The following is a regulated navigation area (RNA): The waters of the Arkansas River between mile 118.2 and mile 125.4.

(b) Regulations. Transit of the RNA is limited during periods of high velocity flow, defined as the flow rate of 70,000 cubic feet per second or more at the Murray Lock and Dam at mile 125.4. The flow rate at this location is calculated by the U.S. Army Corps of Engineers on a regular and routine basis. This information will be distributed by announcements by Coast Guard Marine Information Broadcasts, publication in Coast Guard Local Notice to Mariners,

and telephone or radio contact with the Lockmaster at Murray Lock and Dam.

(c) Transit of the RNA during periods of high velocity flow may only occur under the following conditions:

(1) Vessels may not meet or pass in the RNA.

(2) No vessel shall anchor, stop, remain or drift without power at any time in the RNA.

(3) All vessels shall continually monitor VHF-FM channel 13 on their radiotelephone while in or approaching the RNA.

(4) Prior to entering the RNA, downbound vessels shall make a broadcast in the blind on VHF-FM channel 13 announcing their estimated time of departure from Murray Lock and Dam or from the mooring cells at mile 121.5 to ensure there are no upbound vessels within the RNA. If there is upbound traffic within the RNA, the downbound vessel shall not depart until the upbound vessel has passed through the RNA. After departing, vessels will proceed through the RNA, including all drawbridges located therein, without delay.

(5) When upbound vessels reach mile 116, they shall make a broadcast in the blind on VHF-FM channel 13 announcing their estimated arrival time at the Rock Island Railroad Bridge at mile 118.2.

(6) When a downbound vessel is already in the RNA, an upbound vessel shall adjust its speed so as to avoid a meeting situation in the RNA.

(d) Refer to 33 CFR 117.123 for drawbridge operation regulations.

Editorial Note: This document was received at the Office of the Federal Register on May 21, 1992.

Dated: December 13, 1991.

N.T. Saunders,

Rear Admiral (Lower Half), U.S. Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 92-12318 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL 4136-4]

Standards of Performance for New Stationary Sources; National Emissions Standards for Hazardous Air Pollutants Supplemental Delegation of Authority to South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: On November 25, 1991, South Carolina requested delegation of authority for the implementation and enforcement of additional categories of New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). EPA's review of South Carolina laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and the agency made the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority is March 3, 1992.

ADDRESSES: Copies of the request for the delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency Region IV,
Air Programs Branch, 345 Courtland Street,
NE., Atlanta, Georgia 30365.

South Carolina Department of Health and
Environmental Control, 2600 Bull Street,
Columbia, South Carolina 29201.

March 3, 1992, all requests for applications, reports and other correspondence required pursuant to the newly designated standards should not be submitted to the Region IV office, but instead be submitted to the following address: Mr. R. Lewis Shaw, P.E., Deputy Commissioner, Environmental Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Scott Miller, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, and telephone number (404) 347-2864 or (FTS) 257-2864.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended November 15, 1990, authorize the Administrator to delegate his authority to implement and enforce the standards set out in 40 CFR part 60, Standards of Performance for New Stationary Sources (NSPS) and the standards set out in 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

After a thorough review of the categories requested for delegation, the Regional Administrator determined that such delegation was appropriate for these source categories with conditions set forth in the original delegation letter of October 19, 1976, and subsequent delegation letters of January 22, 1981, February 1, 1984, June 29, 1987, February

9, 1988, January 5, 1989, and December 10, 1990.

EPA, thereby, delegated its authority for 40 CFR part 60 and 40 CFR part 61 for the following subparts:

40 CFR Part 60

Subpart D—Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

Subpart Da—Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

Subpart E—Incinerators.

Subpart Ea—Municipal Waste Combustors.

Subpart G—Nitric Acid Plants.

Subpart H—Sulfuric Acid Plants.

Subpart I—Asphalt Concrete Plants.

Subpart J—Petroleum Refineries except § 60.105(a)(13)(iii) and § 60.106(i)(12) revised in 10/2/90 FR, was § 60.106(g)(12).

Subpart K—Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.

Subpart Ka—Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984 except § 60.114(a).

Subpart L—Secondary Lead Smelters.

Subpart M—Secondary Brass and Bronze Production Plants.

Subpart N—Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.

Subpart Na—Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983.

Subpart O—Sewage Treatment Plants except § 60.153(e).

Subpart P—Primary Copper Smelters.

Subpart Q—Primary Zinc Smelters.

Subpart R—Primary Lead Smelters.

Subpart S—Primary Aluminum Reduction Plants.

Subpart T—Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

Subpart U—Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

Subpart V—Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

Subpart W—Phosphate Fertilizer Industry: Triple Superphosphate Plants.

Subpart X—Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

Subpart Y—Coal Preparation Plants.

Subpart Z—Ferroalloy Production Facilities.

Subpart AA—Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.

Subpart AAa—Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.

Subpart BB—Kraft Pulp Mills.

Subpart CC—Glass Manufacturing Plants.

Subpart DD—Grain Elevators.

Subpart GG—Stationary Gas Turbines except § 60.334(b)(2), § 60.335(f)(1).

Subpart HH—Lime Manufacturing Plants.

Subpart KK—Lead-Acid Battery Manufacturing Plants.

Subpart LL—Metallic Mineral Processing Plants.

Subpart NN—Phosphate Rock Plants.

Subpart PP—Ammonium Sulfate Manufacture.

Subpart UU—Asphalt Processing and Asphalt Roofing Manufacture except § 60.474(g).

Subpart VV—Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry except § 60.482-1(c)(2), § 60.484.

Subpart XX—Bulk Gasoline Terminals except § 60.502(e)(6).

Subpart DDD—VOC Emissions from the Polymer Manufacturing Industry except § 60.562-2(c).

Subpart LLL—Onshore Natural Gas Processing; SO₂ Emissions.

Subpart OOO—Nonmetallic Mineral Processing Plants.

Subpart PPP—Wool Fiberglass Insulation Manufacturing Plants.

The Administrator retains the exclusive right to approve equivalent and alternative test methods, continuous monitoring procedures, and reporting requirements. Therefore, the noted sections of the requested NSPS and NESHAPS standards are among the sections which may not be delegated.

The EPA hereby notifies the public that it has delegated the authority over certain NSPS and NESHAP subparts to the State of South Carolina.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 7412, 7412, and 7601).

Dated: May 12, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92-12178 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 141

[WH-FRL-4135-1]

Drinking Water; National Primary Drinking Water Regulations: Aldicarb, Aldicarb Sulfoxide, and Aldicarb Sulfone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of postponement of certain provisions of final rule.

SUMMARY: On July 1, 1991, EPA established maximum contaminant level goals (MCLGs) and promulgated National Primary Drinking Water Regulations (NPDWRs) for aldicarb, aldicarb sulfoxide, and aldicarb sulfone pursuant to section 1412 of the Safe Drinking Water Act (SDWA) (56 FR 30266, July 1, 1991). Today's action postpones the January 1, 1993 effective date for the regulations for these three compounds pending EPA's reconsideration of the MCLGs and maximum contaminant levels (MCLs).

EFFECTIVE DATE: Effective May 27, 1992, EPA is postponing the effective date of § 141.61(c) (2), (3), and (4) pending agency reconsideration of these rules. EPA will publish the final decision in the *Federal Register*. The amendment to § 141.6(g) is also effective May 27, 1992. The amendment to § 141.24(h) is effective July 30, 1992.

FOR FURTHER INFORMATION CONTACT: Al Havinga, Drinking Water Standards Division, Office of Ground Water and Drinking Water [WH-550], U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC, 20460, tel. 202-260-5555. General information may also be obtained from the EPA Drinking Water Hotline. The toll-free number is 1-800-426-4791.

SUPPLEMENTARY INFORMATION: In August 1991, Rhone-Poulenc Ag Company (Rhone-Poulenc), the manufacturer of the pesticide aldicarb, filed a petition with the D.C. Circuit seeking review of the MCLGs and MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone. (D.C. Cir. No. 91-1419). In December 1991, Rhone-Poulenc filed a petition with the Administrator for reconsideration of the MCLGs and MCLs and for a stay of the January 1, 1993 effective date of the regulations pending reconsideration and judicial review. The Administrator's letter

granting Rhone-Poulenc's petition appears below as an Attachment.

Pursuant to section 705 of the Administrative Procedure Act (APA), 5 U.S.C. 705, "when an agency finds that justice so requires, it may postpone the effective date of actions taken by it, pending judicial review." In addition, section 553 of the APA, 5 U.S.C. 553, provides that when an agency finds good cause to exist, it may issue a rule without first providing notice and comment and make the rule immediately effective. This Notice will be a basis for deferring a pending legal challenge to the MCLGs and MCLs for the aldicarb compounds while the Agency reviews its determinations of those regulations; it is in the public interest to avoid unnecessary litigation. Further this action avoids the possibility that some public water systems would be required to comply with regulations that may be determined to be too stringent. For these reasons, the Agency finds there is good cause not to solicit comment on this notice and to have the postponement immediately effective.

List of Subjects in 40 CFR Part 141

Chemicals, Water supply.

William K. Reilly,

Administrator.

Dated: May 8, 1992.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

2. Part 141 is amended by revising the last sentence of § 141.6(g) to read as follows:

§ 141.6 Effective dates.

(g) * * * The regulations contained in the revisions to sections 141.32(e) (16), (25) through (27) and (46); 141.61(c)(16); and 141.62(b)(3) are effective January 1, 1993. The effective date of regulations contained in section 141.61(c) (2), (3), and (4) is postponed.

3. Part 141 is amended in § 141.24 by adding the following footnote 7 to the end of the introductory text of paragraph (h):

⁷ Monitoring for the contaminants aldicarb, aldicarb sulfoxide, and aldicarb sulfone shall be conducted in accordance with § 141.40.

Editorial Note: This letter will not appear in the Code of Federal Regulations.

H. Derrick Peterson, Esq.,
Bryan, Cave, McPheeters & McRoberts, 700
Thirteenth Street, NW., Washington, DC
20005-3960.

Re: Petition for Reconsideration and Request for Stay

Dear Mr. Peterson: This responds to your request on behalf of Rhone-Poulenc Ag

Company (Rhone-Poulenc) for reconsideration of the regulations issued by the Environmental Protection Agency (EPA or the Agency) for aldicarb, aldicarb sulfoxide, and aldicarb sulfone under the Safe Drinking Water Act (SDWA). 56 FR 30266 (July 1, 1991). Rhone-Poulenc asks for reconsideration of the maximum contaminant level goals (MCLGs) and maximum contaminant levels (MCLs). You have requested a stay of the effective date of these regulations pending such reconsideration and judicial review.

In July 1991, EPA promulgated an MCLG at 0.001 mg/l for each of the aldicarbs, based on clinical signs of toxicity in animals and humans. EPA had earlier proposed MCLGs for aldicarb based on a Reference Dose (RfD) that reflected both cholinesterase inhibition (ChEI) and clinical effects in animals and humans following exposure to aldicarb. See 56 FR 3605 (January 30, 1991). The Agency received a number of comments from the public on the proposal arguing that ChEI is a marker of exposure to aldicarb, not an adverse effect, and should not be a factor in setting the RfD. Moreover, Agency advisory bodies also recommended that plasma and blood ChEI be regarded as a marker of exposure and not signs of toxicity and that the Agency rely on other indices for risk assessment. Report of SAB/SAP Joint Committee on the Review of ChEI and its Effects. (EPA, 1990). In response to these comments and since the Agency's ChEI policy was still under development, the Agency relied on the clinical effects of aldicarb to set the final MCLGs.

Among the studies the Agency considered in determining the clinical effects of exposure to aldicarb was a one-year dog study sponsored by Rhone-Poulenc (the Hazleton study, 1988). The study indicated that there were treatment related clinical effects such as diarrhea and soft stools in the test animals exposed to aldicarb. EPA's analysis of the dog study confirmed that conclusion. Based on the clinical data from the Hazleton study, EPA determined that there were no adverse effects from exposure to aldicarb at a level of 0.02 mg/kg/day and used this no-effect level to calculate the MCLG of 0.001 mg/l. The Agency used human data from a controlled human clinical study (the Haines study) and from reported clinical effects following three separate incidents involving aldicarb exposure in California (the Goldman study) to support qualitatively the MCLG determination. 56 FR 30266 (July 1, 1991). This data base on clinical effects was also used to set the MCLGs for aldicarb sulfone and sulfoxide.

Rhone-Poulenc seeks reconsideration of the aldicarb regulations based on its contention that EPA overstated the toxicity of the aldicarb compounds in setting the MCLGs. Rhone-Poulenc states that the MCLG for aldicarb sulfone is too stringent because EPA used data from the more toxic aldicarb and aldicarb sulfoxide to determine the MCLG, rather than available data on sulfone itself. Rhone-Poulenc also states that EPA's MCLGs were based on the dog study, and that reexamination of that study has revealed that there were no treatment-related clinical effects at any dose level. With its petition, Rhone-Poulenc submitted previously

uncompiled pretreatment data (base-line data on the dogs before the treatment began) to explain why the study originally appeared to show a treatment related effect. Rhone-Poulenc indicates that the pretreatment data show that dogs with clinical signs in the study generally had higher rates of soft stools even before exposure to aldicarb. Rhone-Poulenc concludes that by relying on the misreported treatment effect, EPA overstated the clinical no-effect level and therefore the toxicity of aldicarb and aldicarb sulfoxide by at least a factor of ten. Since aldicarb and sulfoxide were used as surrogates for sulfone, its toxicity was also overstated.

Rhone-Poulenc further argues that EPA should not have used the Goldman study to support its MCLG decision when the Haines study provided much better human data. Rhone-Poulenc provides statements from its panel of experts that are critical of the Goldman study and urges EPA to reconsider its decision not to use the Haines study to calculate the RfD and MCLG.

In establishing the MCLGs for the aldicarbs in the final rule, the Agency appropriately relied on the data in the record. In accordance with its SDWA processes, EPA calculated the no-effect level from data reported to it by Rhone-Poulenc (the Hazleton study). Rhone-Poulenc has now come forward with what appear to be significant pretreatment data that were not available to the Agency during its rulemaking. Rhone-Poulenc seems to explain the failure to provide these data during the rulemaking by arguing that the Agency's proposed rules focused on ChEI and therefore it could not have known that EPA would base the regulations on clinical effects. While ChEI was a prominent element in the Agency's proposed regulations, clinical effects were also included. Indeed, in its comments on the January 1991 proposal of the aldicarb regulations, Rhone-Poulenc specifically discussed the Agency's statements that there was an increase in clinical symptoms in dogs treated with aldicarb.

In the drinking water program, the Agency must determine a concentration level of a contaminant at which no known or anticipated adverse health effects would occur, allowing an adequate margin of safety. For the aldicarbs, the Agency used the data in the dog study to calculate the level at which no adverse health effects appeared. Rhone-Poulenc's newly submitted data purport to show that the dogs that exhibit clinical signs after exposure to aldicarb showed similar signs even before exposure to aldicarb. From these pretreatment data, Rhone-Poulenc concludes that in fact there is no clinical effect from aldicarb administered at any level. The data therefore call into question the Agency's determination of the level at which there was no adverse effect in the test animals from exposure to aldicarb. Since the no-effect level is used to calculate the MCLGs and MCLs, those levels are also in doubt. In light of this new information, I agree to reconsider the Agency's determination of the aldicarbs' MCLGs and MCLs. The Agency still contends that the human studies were considered appropriately and therefore, does not accept Rhone-Poulenc's conclusions as to the use of the

human studies. However, as part of reconsidering the regulatory levels, we will also reexamine our use of the studies and others in setting the MCLGs for all three of the compounds.

Rhone-Poulenc also requests a stay of the January 1, 1993 effective date of the aldicarb regulations. An administrative stay of the regulation constitutes extraordinary relief that requires the petitioner to show sufficient harm to justify the stay. I do not find that Rhone-Poulenc has demonstrated such harm because of its claimed expenditures for compensation for treatment costs. Moreover, I believe the Agency's MCLGs and MCLs were supported by the record available to the Agency at the time of our initial decision. However, I believe it is not in the public interest to require public water systems to comply with the aldicarb MCLs if there is a real possibility that those regulations may be too stringent and may be revised. Therefore, I am staying the effective date of the MCLs for aldicarb, aldicarb sulfoxide and aldicarb sulfone.

It is the Agency's intent to proceed as expeditiously as possible to reexamine our determination of the aldicarb MCLGs and to solicit additional public comment on the appropriateness of changing the MCLGs or MCLs. I am authorizing the Assistant Administrator for Water to publish a notice in the Federal Register soliciting public comment on these issues as soon as the Agency is able. Because of our intent to move quickly on this matter, I am requesting that Rhone-Poulenc respond promptly to any information requests that the Agency might make.

Since EPA intends to reestablish MCLGs and MCLs for the aldicarbs very quickly, public water systems will be required to monitor for the aldicarbs effective January 1, 1993. However, since the MCLs are stayed, such monitoring will be conducted during the stay in accordance with 40 CFR 141.40 rather than 141.24(h). With this monitoring information, public water systems will have a more complete data base on which to judge the necessity for treatment. Further, I will consider all options, including establishing an effective date that reflects the time that public water systems have already had to prepare for implementing the regulations, to avoid additional delay in implementing the regulations. The Assistant Administrator for Water will seek public comment on such options in the forthcoming Federal Register notice.

Conclusion

For the above reasons, I am granting Rhone-Poulenc's petition for reconsideration of the MCLGs and MCLs for the three aldicarbs. I am also staying the effective date of the MCL pending completion of the Agency's reconsideration.

Sincerely yours,

William K. Reilly,

Administrator.

[FR Doc. 92-12136 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0F3870/R1151; FRL-4068-3]

RIN 2070-AB78

Pesticide Tolerance for imazethapyr

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the sum of the residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid in or on corn grain, fodder, and forage at 0.1 part per million (ppm). The regulation was requested by American Cyanamid Co. and establishes the maximum permissible level for residues of the herbicide in or on corn. This tolerance expires on May 27, 1994.

EFFECTIVE DATE: Effective on May 27, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3870/R1151], may be submitted to: Hearing Clerk (A-110), Rm. M3708, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of July 18, 1990 (55 FR 29268), which announced that the American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, had submitted pesticide petition PP 0F3870 to EPA proposing that 40 CFR part 180 be amended by establishing a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, in or on corn at 0.1 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The petitioner subsequently amended the petition by submitting a new Section

F proposing to establish tolerances for the sum of the residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methyl-ethyl)-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid in or on corn grain, fodder, and forage at 0.1 part per million. This revision poses no additional risk to humans, because it is assumed that this metabolite is no more toxic than the parent compound. Therefore, a period of public comment is not necessary.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of this tolerance.

1. Several acute toxicology studies placing technical-grade imazethapyr in Toxicity Category III.

2. An 18-month carcinogenicity study with mice fed diets containing 0, 1,000, 5,000, or 10,000 ppm with no carcinogenic effects observed under the conditions of the study at levels up to and including 10,000 ppm (1,500 mg/kg/day) (highest dose tested [HDT]) and a systemic no-observed-effect level (NOEL) of 5,000 ppm (750 mg/kg/day).

3. A 2-year chronic toxicity/carcinogenicity study in rats fed diets containing 0, 1,000, 5,000, or 10,000 ppm with no carcinogenic effects observed under the conditions of the study at levels up to and including 10,000 ppm (500 mg/kg/day [HDT]) and a systemic NOEL of 10,000 ppm (500 mg/kg/day [HDT]).

4. A 1-year feeding study in dogs fed diets containing 0, 1,000, 5,000, or 10,000 ppm with a NOEL of 1,000 ppm (25 mg/kg/day).

5. A developmental toxicity study in rats fed dosage levels of 0, 125, 375, and 1,125 mg/kg/day, with a maternal toxicity NOEL of 375 mg/kg/day and a developmental toxicity NOEL of greater than 1,125 mg/kg/day (HDT).

6. A developmental toxicity study in rabbits fed dosage levels of 0, 100, 300, and 1,000 mg/kg/day with a maternal toxicity NOEL of 300 mg/kg/day and a developmental toxicity NOEL of greater than 1,000 mg/kg/day (HDT).

7. A two-generation reproduction study in rats fed dietary levels of 0, 1,000, 5,000, or 10,000 ppm with a NOEL for systemic and reproductive effects of 10,000 ppm (500 mg/kg/day [HDT]).

8. A mutagenic test with *Salmonella typhimurium* (negative); an *in vitro* chromosomal aberration test in Chinese hamster ovary cells (positive without metabolic activation but at dose levels that were toxic to the cells and negative

with metabolic activation); an *in vivo* chromosomal aberration test in rat bone marrow cells (negative); an unscheduled DNA synthesis study in rat hepatocytes (negative).

Based on the NOEL of 25 mg/kg bwt/day in the 1-year dog feeding study, and using a hundredfold uncertainty factor, the acceptable daily intake (ADI) for imazethapyr is calculated to be 0.25 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) is 0.000100 mg/kg bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by 0.00033 mg/kg bwt/day (0.013358 percent of the ADI). These tolerances and previously established tolerances utilize a total of 0.05326 percent of the ADI for the overall U.S. population. For U.S. subgroup populations, nonnursing infants, and children aged 1 to 6, the current action and previously established tolerances utilize, respectively, a total of 0.167789 percent and 0.114922 percent of the ADI, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

A Maximum Tolerated Dose (MTD) or Limit Dose (20,000 ppm) was not evaluated in the chronic toxicity/carcinogenicity study with rats. However, the highest dose tested was within 50 percent of the dose level necessary for an adequate carcinogenicity study in rats (20,000 ppm or 1,000 mg/kg/day); this chemical is structurally similar to two other pesticides (Scepter and Assert) that were not carcinogenic in rats or mice; and the genetic toxicity studies were negative for imazethapyr. For these reasons no further carcinogenicity testing is required.

The reproduction study with imazethapyr also used the 10,000 ppm level as the HDT. The structurally similar pesticide Scepter did not cause reproductive effects at 10,000 ppm, and Assert caused reduced pup weights in only F2A and F3B litters at doses of 1,000 and 4,000 ppm in rats; the NOEL for reduced pup weights in the reproduction study with Assert was 250 ppm (12.5 mg/kg/day). These effects did not occur at dose levels equivalent to the NOEL from the 1-year dog study on which the ADI is based. For imazethapyr there were no effects at the 10,000 ppm level (500 mg/kg/day). Therefore, another reproduction study is not needed to support the requested tolerance.

Although an analytical method is available for imazethapyr on corn, the Agency has requested that the petitioner revise the analytical method to make certain improvements and revisions

which will allow one method to be used for all imazethapyr tolerances. In addition, the petitioner has agreed to conduct a second independent laboratory validation (ILV). This tolerance is being established with an expiration date to assure timely submission of the revised method and subsequent validation.

The nature of the residue is adequately understood. Prior to revision of the analytical method and publication in the Pesticide Analytical Manual, Vol. II, an analytical method (GLC with an N/P detector) will be available in the interim to anyone interested in pesticide enforcement. It can be requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. There are currently no actions pending against the registration of this chemical. No secondary residues are expected to occur in meat, milk, poultry, or eggs from this use.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the

Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement of this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests

Dated: May 15, 1992.

Susan H. Wayland,
Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.447, new paragraph (c) is added, to read as follows:

§ 180.447 Imazethapyr, ammonium salt; tolerance for residues.

(c) A tolerance that expires on May 27, 1994 is established for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid, in or on the following commodities:

Commodity	Parts per million
Corn grain, fodder, and forage.....	0.1

[FR Doc. 92-12294 Filed 5-26-92; 8:45 am]
BILLING CODE 6580-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 92-167]

Delegations of Authority in Forfeiture Proceedings

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule appearing in the Federal Register of Wednesday, April 29, 1992 (57 FR 18088) FR Doc. 92-9752. The rule

increased the forfeiture amounts that could be imposed by Commission Bureaus and Offices under delegated authority. The final rule is corrected to show that the item was adopted April 7, 1992, not April 8, 1992. We are also correcting an anomaly in the amended rules that was carried forward from the previous version of the rules. Pursuant to the corrected version of § 0.291(f), the Chief, Common Carrier Bureau, like all Bureau Chiefs, is delegated authority to assess forfeitures in amounts up to and including \$20,000, not just up to \$20,000. This correction is consistent with the language contained in the rule.

EFFECTIVE DATE: April 29, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas Cooper, Office of General Counsel, Federal Communications Commission, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Accordingly FR Doc. 92-9752, published April 29, 1992 (57 FR 18088) is corrected as follows:

1. On page 18088, in the first column, in the first paragraph under SUPPLEMENTARY INFORMATION, the adoption date of "April 8, 1992" is corrected to read "April 7, 1992".

2. On page 18088, in the third column, § 0.291(f) is corrected to read as follows:

Chief, Common Carrier Bureau

§ 0.291 Authority delegated.

(f) Authority concerning forfeitures. The Chief, Common Carrier Bureau shall not have authority to impose, reduce or cancel forfeitures pursuant to section 203 or section 503(b) of the Communications Act of 1934, as amended, in amounts of more than \$20,000.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-11734 Filed 5-26-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-126F; Amdt. No. 172-126]

RIN 2137-AB26

Training for Safe Transportation of Hazardous Materials; Correction

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This amendment makes a revision to a final rule published in the Federal Register under Docket HM-126F (57 FR 20944, May 15, 1992). That final rule revised the Hazardous Materials Regulations with respect to regulatory requirements for the training and testing of hazardous materials (hazmat) employees by hazmat employers. This amendment clarifies that a hazmat employer must test each hazmat employee to ensure that the training received is effective.

DATES: This amendment is effective on July 1, 1992. However, compliance with the regulations amended herein is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Jackie Smith, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, Telephone: (202) 366-4488.

SUPPLEMENTARY INFORMATION: On May 15, 1992, RSPA published a final rule under Docket HM-126F (57 FR 20944), which revised the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) with respect to training and testing requirements for persons involved in the transportation of hazardous materials. This action was necessary to comply with Section 7 of the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), enacted November 16, 1990, which amended Section 106 of the Hazardous Materials Transportation Act (HMTA), 49 App. U.S.C. 1801 *et seq.*, to require training and testing to be given by all "hazmat employers" to their "hazmat employees" regarding the safe transportation of hazardous materials including emergency response.

In § 172.704(d)(5) of the final rule, a hazmat employer is required to provide a record which includes certification that a hazmat employee has received training and has been tested. RSPA inadvertently omitted a similar requirement for testing of hazmat employees in § 172.702, which requires a hazmat employer to ensure that each hazmat employee is trained. This amendment adds a requirement in § 172.702(d) that each hazmat employer ensure that each hazmat employee is tested.

The diversity of job functions covered by the final rule makes it impractical to develop specific requirements for testing all categories of employees to ensure they have been properly trained. Therefore, there are no detailed testing procedures specified in the rule, which

allows the hazmat employer maximum flexibility.

The final rule published May 15, 1992 at 57 FR 20944, (FR Doc. 92-11460) is corrected as follows:

In § 172.702, on page 20952, in the third column, the section heading is revised and a new paragraph (d) is added to read as follows:

§ 172.702 Applicability and responsibility for training and testing.

(d) A hazmat employer shall ensure that each of its hazmat employees is tested by appropriate means on the training subjects covered in § 172.704.

Issued in Washington, DC on May 20, 1992, under authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 92-12240 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of directed fishing for sablefish.

SUMMARY: NMFS is closing the directed fishery for sablefish using hook-and-line gear in the Southeast Outside (SEO) and East Yakutat (EY) districts of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the share of the sablefish total allowable catch (TAC) assigned to hook-and-line gear in these districts.

EFFECTIVE DATE: 12 noon, Alaska local time (A.L.T.), May 23, 1992, through 12 midnight, A.L.T., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S.

vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The share of the sablefish TAC assigned to hook-and-line gear in the SEO and EY districts, which are defined at § 672.2, is established by the final notice of specifications (57 FR 2844, January 24, 1992) as 4,740 metric tons.

Under § 672.24(c)(3)(i), the Director of the Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish TAC assigned to hook-and-line gear in the SEO and EY districts will be taken before the end of the year. Therefore, to provide adequate bycatch amounts of sablefish to ensure continued groundfish fishing activity by hook-and-line gear, NMFS is prohibiting directed fishing for sablefish by vessels using hook-and-line gear in the SEO and EY districts, effective from 12 noon, A.L.T., May 23, 1992, through 12 midnight, A.L.T., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.24 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 20, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-12286 Filed 5-21-92; 2:27 pm]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 920520-2120]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule and request for comments.

SUMMARY: NMFS has determined that an emergency exists in groundfish fisheries in the Bering Sea and Aleutian Islands area (BSAI). Additional halibut bycatch management measures must be implemented to respond to unexpectedly high bycatch amounts in the BSAI trawl fisheries and to maintain halibut bycatch amounts within the halibut bycatch limits established for the 1992 trawl fisheries. This action is intended to further the goals and objectives

contained in the fishery management plans for the groundfish fisheries off Alaska.

DATES: Effective May 21, 1992, through August 25, 1992. Comments are invited on this action through June 11, 1992.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action may be obtained from Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

Susan J. Salvesson, Fisheries Management Biologist, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI are managed by the Secretary of Commerce (Secretary) under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations governing the foreign fishery at 50 CFR part 611 and by regulations governing the U.S. fishery at 50 CFR part 675. Additional regulations applicable to the U.S. fisheries are codified at 50 CFR part 620.

At times, amendments to the FMP and its implementing regulations are necessary to respond to fishery conservation and management problems that cannot be addressed within the time frame of the normal procedures provided for by the Magnuson Act. Section 305(c) of the Magnuson Act authorizes the Secretary to implement emergency regulations necessary to address these emergencies. These emergency regulations may remain in effect for not more than 90 days after publication in the *Federal Register*, with a possible 90-day extension.

At its December 3-9, 1991, meeting, the Council adopted revisions to prohibited species bycatch management measures that are proposed under Amendment 19 to the FMP and associated regulatory amendments. The Council further recommended that some of these measures be implemented early in the 1992 fishing year through emergency interim rulemaking, which was implemented on March 30, 1992 (57 FR 11433, April 3, 1992). A *Federal Register* notice of the availability of Amendment 19 that, if approved, would

implement the Council's actions was published on April 28, 1992 (57 FR 17879). Pending Secretarial approval, a final rule implementing these measures will not be effective before September 1992.

Subsequent to the December Council meeting, unexpectedly high bycatch amounts of halibut, red king crab and *C. bairdi* Tanner crab were experienced during the January-February 1992 BSAI pollock fishery. In response to NMFS, Council, and industry concern about the potential effect of these bycatch amounts on other fisheries, the Council held a February 26, 1992, teleconference meeting. At this meeting, information presented to the Council by NMFS and industry representatives indicated that the 1992 halibut bycatch limit established for BSAI trawl gear (5,033 metric tons (mt)) would be grossly exceeded if additional restrictions were not placed on the pollock fishery when the second pollock season opens on June 1. Given these concerns, the Council recommended emergency rule implementation of the following two management measures:

(1) Include the BSAI pollock fishery under the vessel incentive program to reduce halibut bycatch rates in this fishery when directed fishing for pollock with non-pelagic trawl gear is prohibited; and

(2) Prohibit the use of trawl gear other than pelagic trawl gear by vessels participating in the directed fishery for BSAI pollock.

A fuller description of, and justification for each of these measures follows.

Expansion of the Vessel Incentive Program to Include the Pollock Fishery

Under the emergency rule, the vessel incentive program to reduce halibut bycatch rates at § 675.26 is expanded to include those vessels that participate in the BSAI pollock fishery when fishing for pollock with non-pelagic trawl gear is prohibited under § 675.21. The halibut bycatch rate standard specified for these vessels is 0.1 percent, or 1 kilogram (kg) of halibut per mt of groundfish for which a total allowable catch (TAC) is specified under criteria specified under § 675.20(a)(2). For purposes of the incentive program, the pollock fishery is defined as trawl fishing that results in an observed groundfish catch that is composed of 50 percent or more of pollock when the directed fishery for pollock by trawl vessels using non-pelagic trawl gear is closed.

Emergency rule implementation of the expanded incentive program is necessary to reduce the amount of

halibut taken incidentally by vessels participating in the 1992 pollock fishery. The justification for and purpose of the vessel incentive program to reduce prohibited species bycatch rates is provided in the preamble to the interim final rule that implemented this program for the BSAI Pacific cod and flatfish fisheries (56 FR 21619, May 10, 1991). For purposes of the incentive program established under this emergency rule, the definition of the BSAI pollock fishery is based on NMFS' examination of historical observer data on groundfish catch composition and how closely a fishery's groundfish catch composition reflected intended target operations. Data on the species composition of a vessel's groundfish catch during any weekly reporting period will be derived from observer data collected from observed catch of allocated groundfish species.

The emergency rule implementation of the incentive program for the pollock fishery responds to the unforeseen high halibut bycatch rates experienced during the first season of the 1992 BSAI pollock fishery. Continued exemption of the pelagic trawl pollock fishery from measures to reduce halibut bycatch will cause the 1992 halibut bycatch limit specified for BSAI trawl fisheries to be exceeded by a significant amount. Action must be taken to maintain halibut bycatch amounts within the 1992 bycatch limit to respond to the international, social, and economic conflicts between U.S. and Canadian halibut fishermen and U.S. groundfish fishermen. These conflicts arise from the competing use of halibut as a bycatch species in the groundfish fisheries and as a target species in the Canadian and U.S. setline fisheries. When setting annual catch limits for the Canadian and U.S. halibut setline fisheries, the International Pacific Halibut Commission (IPHC) compensates for halibut bycatch mortality in the groundfish fisheries by reducing the harvest of halibut in the directed setline fisheries. The reduction in the setline halibut catch limit is intended to maintain the reproductive potential of the exploitable component of the halibut stock. The compensation factor currently used by the IPHC is one mt of halibut catch limit reduction for each mt of bycatch mortality. The greater the halibut bycatch mortality in the groundfish fishery, therefore, the less amount of halibut that will be made available to the Canadian and U.S. setline fisheries. Without emergency rule measures to reduce halibut bycatch amounts in the 1992 pollock fishery, the halibut bycatch limit established for the 1992 BSAI trawl fisheries will be

exceeded, the BSAI pollock fishery will be closed prematurely, the 1993 setline halibut quota will be reduced by a commensurate amount, and economic growth in the traditional setline halibut fisheries will be obstructed.

Regulations for the management of the prohibited species bycatch limits established for BSAI trawl fisheries (§ 675.21(c)) and regulations promulgated under the March 30, 1992, emergency rule (§ 675.21(h)) exempt vessels that use pelagic trawl gear in the directed fishery for pollock from fishery closures caused by the attainment of prohibited species bycatch limits. This exemption was provided under the assumption that operators of vessels using pelagic trawl gear to fish for pollock experience minimal bycatch rates of halibut and crab.

NMFS observer data indicate that halibut and crab bycatch rates during the first month of the 1992 BSAI pollock roe fishery here were unexpectedly high. The best information available indicates these high rates occurred because fishermen fished on or near the sea bed in an attempt to find concentrations of nature pollock while avoiding a high abundance of unmarketable juvenile pollock. The resulting high bycatch amounts of halibut and crab supported emergency adjustments of the BSAI fishery allocations of the 1992 halibut bycatch limit to avoid premature closures of other fisheries that shared prohibited species bycatch allowances with the pollock fishery. The BSAI pollock fishery was closed on March 6, 1992, when the pollock quota specified for the first season pollock fishery was reached. The second pollock season will open June 1, 1992, when about 500 mt of the 1,692 mt halibut bycatch allowances specified for this fishery will remain.

During the second season of the 1991 pollock fishery, vessels participating in this fishery took about 832 mt of halibut bycatch. Of this amount, 521 mt are estimated to have been taken in the midwater pollock fishery. Given that over 500,000 mt of Bering Sea pollock will be available for harvest in the second season of the 1992 pollock fishery and that high halibut bycatch rates are anticipated to continue, the use of non-pelagic trawl gear to fish for pollock, together with a continued exemption of the pelagic trawl fishery from bycatch limit restrictions, will result in a significant overage of the 1,692 mt halibut bycatch allowance specified for this fishery. As a result, the total halibut bycatch limit specified for BSAI trawl gear will be exceeded. This situation will cause international, social, and economic conflicts between U.S.

and Canadian halibut fishermen and U.S. groundfish fishermen that take halibut as bycatch.

Emergency rule implementation of the vessel incentive program for the 1992 pollock fishery, together with prohibiting the use of trawl gear other than pelagic trawl gear by vessels participating in the directed fishery for pollock (see below), will reduce average halibut bycatch rates during the second pollock season so that associated bycatch amounts can be maintained with the halibut bycatch allowance specified for this fishery.

Closure of Directed Fishing for BSAI Pollock by Vessels Using Non-pelagic Trawl Gear.

Under the emergency rule, operators of vessels participating in the directed fishery for BSAI pollock are prohibited from using non-pelagic trawl gear. This action, together with the expansion of the incentive program to include the pollock fishery (discussed above) will reduce the amount of halibut taken as bycatch in the BSAI pollock fishery by limiting the amount of pollock that is taken in trawls fished in contact with the sea bed. As with the expansion of the incentive program, emergency rule implementation of the non-trawl gear prohibition responds to the unexpectedly high bycatch of halibut in the first quarter pollock fishery and an anticipation that, without regulatory intervention, continued bycatch amounts in this fishery during the second pollock season will result in a significant overage of the halibut bycatch limit specified for the BSAI trawl fisheries.

At its September and December 1991 meetings, the Council did not recommend that the amount of pollock TAC taken with non-pelagic trawl gear be limited in 1992 in anticipation that this gear type would take only a small percentage of the total pollock TAC. In 1991, non-pelagic trawl gear took less than 6 percent of the total pollock TAC. During the first season of the 1992 pollock fishery, however, non-pelagic trawl gear accounted for over 13 percent of the total pollock catch. The use of non-pelagic trawl gear is expected to continue once the second pollock season reopens on June 1, 1992. During the second opening of the 1991 pollock fishery, the bottom trawl pollock fishery took over 300 mt of halibut bycatch, compared to 521 mt of halibut bycatch in the midwater trawl pollock fishery. Although much of the bycatch in the bottom trawl pollock fishery was the result of fishing on the sea bed with modified pelagic trawl gear, fishing for pollock with non-pelagic trawl gear is expected to result in significant amounts

of halibut bycatch. Under the March 30, 1992, emergency rule, about 500 mt of the 1,692 mt halibut bycatch allowance apportioned to the pollock fishery remains to support the second season opening. This amount is insufficient to support a directed fishery for pollock with nonpelagic trawl gear. Given that pollock can be effectively harvested with pelagic trawl gear fished off the bottom in a manner that minimizes the bycatch of halibut, the emergency rule prohibits the use of trawl gear other than pelagic trawls in any directed fishery for pollock. Directed fishing for pollock by trawl vessels using non-pelagic trawl gear is thereby closed as of the effective date of this action. Under existing directed fishing standards, the round weight equivalent amounts of pollock harvested with nonpelagic trawl gear and retained at any time during a fishing trip must be less than 20 percent of the round-weight equivalent of other species retained at the same time during the same trip. As in 1991 and 1990, most of the second season pollock TAC will be taken with pelagic trawl gear, and no significant displacement of effort or cost to groundfish fishermen is expected.

Secretarial Determinations

The Secretary concurs with the Council's recommendation for emergency rule implementation of the management measures promulgated under this emergency rule. When the BSAI pollock fishery reopens on June 1, 1992, the prohibition of trawl gear other than pelagic trawl gear in the directed fishery for pollock, combined with the inclusion of this fishery under the vessel incentive program, will reduce halibut bycatch rates from those experienced earlier in 1992. These actions are necessary to maintain total halibut bycatch amounts within specified limits. Comments on this action are invited through June 11, 1992, (see ADDRESSES).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator finds that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under sections 553(b) and (d) of the Administrative Procedure Act. Revised bycatch management measures that

respond to new information that was developed from the Council's December 1991 meeting and its February 26, 1992, teleconference must be implemented as soon as possible to avoid serious problems pertinent to the management and monitoring of prohibited species, and minimize foregone groundfish harvests and associated revenues that occur under existing prohibited species catch limits.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

Based on the EA prepared for this action, the Assistant Administrator concluded that no significant impact on the human environment will result. A copy of the EA is available (see ADDRESSES).

NMFS has determined that none of the actions taken under this emergency rule will adversely affect endangered or threatened species. Therefore, formal consultation pursuant to section 7 of the Endangered Species Act is not required for the implementation of this rule.

This emergency rule is exempt from the normal review procedures of E.O. 12291, as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why following the usual procedures of that order is not possible.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 12612.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: May 20, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 675.24, new paragraph (c)(2)(iii) is temporarily added from May 21, 1992, through August 25, 1992, to read as follows:

§ 675.24 Gear limitations.

(c) * * *

(2) * * *

(iii) Notwithstanding paragraph (c)(2)(ii) of this section, it is unlawful for any person to engage in directed fishing for pollock with trawl gear other than pelagic trawl gear.

3. In § 675.26, paragraphs (a)(2)(ii)(A), (a)(2)(ii)(B), (b), and (d)(3) are temporarily suspended from May 21, 1992, through August 25, 1992, and new paragraphs (a)(2)(ii)(C), (a)(2)(ii)(D), (d)(4), and (e) are temporarily added from May 21, 1992, through August 25, 1992, to read as follows:

§ 675.26 Program to reduce prohibited species bycatch limits.

(a) * * *

(2) * * *

(ii) * * *

(C) The ratio of total round weight of halibut, in kilograms, to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 675.20 while participating in the pollock, Pacific cod, or flatfish fisheries, as defined in paragraph (e) of this section; and

(D) The ratio of number of red king crab to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 675.20 while participating in the flatfish fishery, as defined in paragraph (e) of this section.

(d) * * *

(4) *Determination of individual vessel bycatch rates*—(i) *Calculation of monthly bycatch rates.* (A) For each vessel, the Regional Director will aggregate from sampled hauls the observed data collected during a weekly reporting period on the total round weight, in metric tons, of each groundfish species or species group for which a TAC has been specified under § 675.20 of this part to determine to which of the fisheries described in paragraph (e) of this section the vessel should be assigned for that week.

(B) At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was on board (as recorded in the vessel's daily logbook required under § 675.5), the Regional Director will calculate the vessel's bycatch rate based on observed data for each fishery described in paragraph (e) of this section to which the vessel was assigned for any weekly reporting period during that fishing month. Only observed data that have been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) The bycatch rate of a vessel for a fishery described under paragraph (e) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using the total round weight of halibut (in kg), or total number of red king crab, in samples during all weekly reporting periods in which the vessel was assigned to that fishery and the total round weight of the groundfish (in mt) for which a TAC has been specified under § 675.20 in samples taken during all such periods.

(ii) *Compliance with bycatch rate standards.* A vessel has exceeded a bycatch rate standard for a fishery if the vessel's bycatch rate for a fishing month, as calculated under paragraph (d)(4)(i)(C) of this section, exceeds the

bycatch rate standard established for that fishery under paragraph (c) of this section.

(e) *Fisheries.* A vessel will be subject to provisions of this section if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership processor that receives unsorted codends from the vessel, at any time during a weekly reporting period; and the vessel is assigned, under paragraph (d)(4)(i)(A) of this section, to either the pollock fishery, the Pacific cod fishery or the flatfish fishery defined in paragraphs (e)(1), (e)(2) and (e)(3) of this section. During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has been specified under § 675.20 will determine the fishery to which the vessel is assigned, as follows:

(1) The *pollock fishery* means fishing with trawl gear when directed fishing for pollock with non-pelagic trawl gear is closed under § 675.21 part that results in an observed groundfish catch during a weekly reporting period that is composed of 50 percent or more of pollock;

(2) The *Pacific cod fishery* means trawl fishing that does not qualify as a pollock fishery under paragraph (e)(1) of this section and results in an observed groundfish catch during a weekly reporting period that is composed of 45 percent or more of Pacific cod; and

(3) The *flatfish fishery* means trawl fishing that does not qualify as a pollock or Pacific cod fishery under paragraphs (e)(1) or (e)(2) of this section and results in an observed catch of yellowfin sole, rock sole, and "other flatfish," in the aggregate, that is 40 percent or more of the total amount of groundfish caught during the week.

[FR Doc. 92-12285 Filed 5-21-92; 2:27 pm]

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-AEA-05]

Proposed Alteration of Transition Area; Dover, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is proposing to revise the legal description of the Dover, DE, 700 foot Transition Area to incorporate a pending name change of the Kenton VORTAC to the Smyrna VORTAC. Additionally, minor technical revisions are being incorporated into the description to reflect the actual geographic locations of all airports within this area.

DATES: Comments must be received on or before July 1, 1992.

ADDRESSES: Send comments on the rule in triplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 92-AEA-05, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica,

New York 11430; telephone: (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commentors wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92-AEA-05". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the 700 foot Transition Area at Dover, DE, due to a name change for the Kenton VORTAC facility. The new name will be the Smyrna VORTAC. The legal description of this area is being revised to incorporate the new name and correct geographic locations of all airports contained therein. The Dover, DE, transition area description was republished in § 71.181 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas, Incorporation by Reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g) 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published

April 30, 1991, and effective November 1, 1991, is proposed to be amended as follows:

Section 71.181

AEA DE TA Dover, DE

Dover AFB, DE (lat. 39°07'48"N., long. 75°28'00"W.) Dover TACAN (lat. 39°07'54"N., long. 75°28'06"W.) Smyrna VORTAC (lat. 39°13'54"N., long. 75°30'59"W.) Delaware Airpark, DE (lat. 39°13'06"N., long. 75°35'50"W.)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of Dover AFB and within 3.1 miles each side of the Dover TACAN 177° radial extending from the 7.9-mile radius to 9.2 miles south of the TACAN and within 3.1 miles each side of the Dover TACAN 133° radial extending from the 7.9-mile radius to 9.2 miles southeast of the TACAN and within a 6.3-mile radius of the Delaware Airpark and within 5.7 miles north and 4 miles south of the Smyrna VORTAC 078° and 258° radials extending from the 6.3-mile radius of Delaware Airpark to 10 miles east of the VORTAC.

Issued in Jamaica, New York, on May 12, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-12283 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD10

Supplemental Security Income for the Aged, Blind, and Disabled; Financial Institution Account Policy in the Supplemental Security Income Program

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: We are proposing to codify in regulations, certain procedures which currently appear in our internal operating instructions regarding how we attribute ownership of financial institution accounts for purposes of determining eligibility for supplemental security income (SSI). Existing regulations do not contain the rules we use to determine ownership of financial institution account funds.

DATES: To be sure that your comments are considered, we must receive them no later than July 27, 1992.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1762.

SUPPLEMENTARY INFORMATION: These proposed regulations will codify present SSI procedures with respect to attributing ownership of financial institution account funds for SSI eligibility purposes. These procedures appear in our operating instructions. Title XVI of the Social Security Act and existing regulations are silent on the issue of how funds held in financial institution accounts are attributed for SSI resource eligibility purposes. Regulations at § 416.1201 define resources as "cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance." The term "bank account" as used in § 416.1201(b) has been replaced by the term "financial institution account" because, in the past, the use of the term "bank" has been criticized as too restrictive. For example, credit unions and savings and loan institutions are not technically "banks," but our savings, checking, and time deposit account policies apply to investments held in those institutions as well. So that our rules for determining ownership of financial institution account funds may be consistently used and relied upon as authority by our adjudicators at all administrative levels, and by the courts, and may be better understood by SSI claimants, recipients, representatives, and others, we are codifying those rules in the regulations.

Financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit) may either be individually-held or jointly-held. Funds held in a financial institution account are an individual's resource if the individual owns the account and can use the funds for his or her support and maintenance. We determine whether an individual owns the account and can access the funds by looking at how the individual holds the

account. This is reflected in the way the account is titled.

Individually-Held Accounts

If an individual is designated as sole owner by the account title and can withdraw funds and use them for his or her support and maintenance, all of the funds, regardless of their source, are that individual's resource for SSI purposes. The policy applies even if the individual does not consider the funds as belonging to him or her, has never made deposits to or withdrawals from the account, and has never used any of the funds for personal needs or benefit. Unless legal restrictions preclude the owner from using the funds for support and maintenance (e.g., under the terms of a divorce decree, the recipient must use all funds in the account to maintain a home for the former spouse), all of the funds are attributed to the owner as indicated on the account title.

We do not provide an opportunity for the owner of an individually-held account to rebut the presumption of 100-percent ownership. For example, as a result of an interface with the records of the Internal Revenue Service, (IRS) we could learn that an SSI recipient owns a previously undisclosed solely-titled financial institution account. The recipient might allege that none of the funds in the account actually belong to him or her. However, for as long as the recipient is shown as sole owner and the account is not legally restricted, we determine that the funds are available for his or her support and maintenance and that the funds are a resource for SSI purposes.

Jointly-Held Accounts

1. Account Holders Include One or More SSI Claimants or Recipients

If there is only one SSI claimant or recipient account holder on a jointly-held account, we presume that all of the funds in the account belong to that individual.

If there is more than one claimant or recipient account holder, we presume that all of the funds in the account belong to those individuals in equal shares. By allocating funds equally among claimant/recipient co-owners, we avoid double counting.

2. Account Holders Include One or More Deemors

If none of the account holders is a claimant or recipient, we presume that all of the funds in a jointly-held account belong to the deemor(s), in equal shares if there is more than one deemor. A deemor is a person whose income and resources are required to be considered

when determining eligibility and computing the SSI benefit amount for an eligible individual (see §§ 416.1160 and 416.1202).

3. Right to Rebut Presumption of Ownership

If the claimant, recipient, or devisor objects or disagrees with an ownership presumption described in 1 or 2 above, we give the individual the opportunity to rebut the presumption. Rebuttal is a procedure which permits an individual to furnish evidence and establish that some or all of the funds in a jointly-held account do not belong to him or her. Successful rebuttal establishes that the individual does not own some or all of the funds.

The effect of successful rebuttal may be retroactive as well as prospective. To successfully rebut the ownership presumption on a retroactive and/or prospective basis, the individual must submit evidence from the financial institution showing that:

- The individual can no longer withdraw funds from the account (if he or she owns none of the funds); or
- The individual's funds have been removed from the account, or the other person's funds have been removed, and the account title has been redesignated.

Example: The recipient's first month of eligibility is January 1991. In May 1991, the recipient successfully establishes that none of the funds in a 5-year-old jointly-held account belong to her. We do not count any of the funds as resources for the months of January 1991 and continuing.

The application of a presumptive finding that some or all of the funds in a jointly-held account belong to the SSI claimant or recipient could inconvenience that individual. However, we believe the current requirements are reasonable and any burdens on SSI claimants or recipients are minimal.

Our policy with respect to jointly-held accounts reflects the legal reality that funds in a jointly-held account are available to meet a co-owner's day-to-day needs. However, the rebuttal process allows us to evaluate individual circumstances and not create administrative barriers to entitlement.

We believe the joint account rebuttal process minimizes the burden on individuals with respect to establishing SSI resource eligibility.

When an individual presents a jointly-held account, or when we become aware of such an account through interface with the nonwage records of the IRS, we inform the individual of the applicable ownership presumptions (described above) and of his or her right

to provide evidence rebutting those presumptions. We assist the individual, where necessary, in establishing that some or all of the funds do not belong to him or her.

The administrative requirements with respect to rebuttal are not complicated or unreasonable. We obtain the individual's statement and corroborating statements from other account holders. We document account deposits and withdrawals. If the individual alleges owning none of the funds in the account, we ask that the title of the account be corrected so that the individual is no longer shown as a co-owner. If the individual owns only a portion of the funds, we ask that any solely-owned funds be maintained separately from funds that do not belong to him or her.

We considered a policy change whereby we would apply State laws in determining how much of the funds in a jointly-owned financial institution account an individual owns for SSI purposes. However, applying State laws to the ownership determination would not benefit all SSI claimants and recipients, since the current SSI joint ownership presumptions are rebuttable, whereas some State laws on ownership contain nonrebuttable presumptions. A policy of applying State laws would result in dozens of disparate rules on the SSI treatment of funds in joint accounts, and could serve as a barrier to the public's understanding of, and participation in, the SSI program.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that these are not major rules under Executive Order 12291 since the costs are expected to be less than \$100 million, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: September 9, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: January 2, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart L of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1883; sec. 211 of Pub. L. 93-86, 67 Stat. 154.

2. Section 416.1201 is amended by revising paragraph (b) to read as follows:

§ 416.1201 Resources; general.

(b) *Liquid resources.* Liquid resources are cash or other property which can be converted to cash within 20 days, excluding certain nonwork days as explained in § 416.120(d). Examples of resources that are ordinarily liquid are stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit) and similar items. Liquid resources, other than cash, are evaluated according to the individual's equity in the resources. (See § 416.1208 for the treatment of funds held in individual and joint financial institution accounts.)

3. Section 416.1208 is added to read as follows:

§ 416.1208 How funds held in financial institution accounts are counted.

(a) *General.* Funds held in a financial institution account (including savings, checking, and time deposits, also known as certificates of deposit) are an individual's resource if the individual owns the account and can use the funds for his or her support and maintenance. We determine whether an individual owns the account and can use the funds for his or her support and maintenance by looking at how the individual holds

the account. This is reflected in the way the account is titled.

(b) *Individually-held account.* If an individual is designated as sole owner by the account title and can withdraw funds and use them for his or her support and maintenance, all of the funds, regardless of their source, are that individual's resource. For as long as these conditions are met, we presume that the individual owns 100 percent of the funds in the account. This presumption is non-rebuttable.

(c) *Jointly-held account—(1) Account Holders Include One or More SSI Claimants or Recipients.* If there is only one SSI claimant or recipient account holder on a jointly-held account, we presume that all of the funds in the account belong to that individual. If there is more than one claimant or recipient account holder, we presume that all of the funds in the account belong to those individuals in equal shares.

(2) *Account Holders Include One or More Deemors.* If none of the account holders is a claimant or recipient, we presume that all of the funds in a jointly-held account belong to the deemor(s), in equal shares if there is more than one deemor. A deemor is a person whose income and resources are required to be considered when determining eligibility and computing the SSI benefit for an eligible individual (see §§ 416.1160 and 416.1202).

(3) *Right to Rebut Presumption of Ownership.* If the claimant, recipient, or deemor objects or disagrees with an ownership presumption as described in paragraph (c)(1) or (c)(2) of this section, we give the individual the opportunity to rebut the presumption. Rebuttal is a procedure which permits an individual to furnish evidence and establish that some or all of the funds in a jointly-held account do not belong to him or her. Successful rebuttal establishes that the individual does not own some or all of the funds. The effect of successful rebuttal may be retroactive as well as prospective.

Example: The recipient's first month of eligibility is January 1991. In May 1991, the recipient successfully establishes that none of the funds in a 5-year-old jointly-held account belong to her. We do not count any of the funds as resources for the months of January 1991 and continuing.

[FR Doc. 92-12228 Filed 5-26-92; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[GL-173-89]

RIN 1545-AN46

Property Exempt from Levy

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulatory amendment regarding property exempt from levy. The Technical and Miscellaneous Revenue Act of 1988 (TAMRA) amended section 6334 of the Internal Revenue Code concerning property which is exempt from levy by increasing existing dollar amounts for specific exempt property, adding additional types of property to the list of exempt property, and exempting a taxpayer's principal residence from levy unless jeopardy is determined or unless the levy is approved in writing by the district director or assistant district director. Additionally, TAMRA changed the determination of the exempt amount payable to a taxpayer as wages, salary or other income. The proposed regulatory amendment provides the rules for determining property exempt from levy. The regulatory amendment also takes into account other public laws which had previously changed the determination of property exempt from levy but which had never been reflected in the regulations.

This document modifies regulations on property exempt from levy, wages, salary and other income, and determination of exempt amount; removes existing regulations on determination of payroll period, dependent exemption, effective dates, and supersession of temporary regulations; and adds new regulations on verified statements.

DATES: Written comments and requests to speak (with an outline of oral comments) at the public hearing must be received by July 31, 1992. See notice of hearing published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments and requests to speak (with an outline of oral comments) at the public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (GL-173-89), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Robert A. Miller, 202-535-9668 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6334 of the Internal Revenue Code (the Code). The regulations reflect the amendment of section 6334 by sections 1015(o) and 6236(c) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, as well as the Tax Reform Act of 1986, Public Law 99-514, the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, and the Tax Reform Act of 1976, Public Law 94-455, which had not previously been reflected in the regulations.

Explanation of Provisions

Section 6236(c) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647) (TAMRA) made several amendments to section 6334 of the Internal Revenue Code concerning property which is exempt from levy. TAMRA increased the exempt amount for personal fuel, provisions, furniture and personal effects under section 6334(a)(2) to \$1,650 (\$1,550 in the case of levies issued in 1989); and increased the exempt amount for books and tools of trade, business or profession under section 6334(a)(3) to \$1,100 (\$1,050 in the case of levies issued in 1989). Section 347(a)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) (TEFRA) had increased the exempt amount for fuel, provisions, furniture and personal effects from \$500 to \$1,500 for levies made after December 31, 1982, and section 347(a)(1) of TEFRA had increased the exempt amount for books, and tools of a trade, business or profession from \$250 to \$1,000 for levies made after December 31, 1982. These changes were never reflected in the regulations.

TAMRA also added two additional types of property to the list of property exempt from levy. The first is any amount payable to an individual as public assistance under title IV (relating to aid to families with dependent children) and title XVI (relating to supplemental security income from the aged, blind or disabled) of the Social Security Act, or under state or local welfare programs for which eligibility is determined by a needs or income test. (Section 6334(a)(11).) The second is any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated under the Act. (Section 6334(a)(12).) In addition, TAMRA exempted a taxpayer's principal

residence from levy unless jeopardy exists or unless the levy is approved in writing by the district director or assistant district director. (Section 6334(a)(13).)

By an amendment to section 6334(a)(10), TAMRA expanded the types of service-connected disability payments under title 38 of the U.S. Code which are exempt from levy. Section 6334(a)(10) was added to the Code by section 1565(a) of the Tax Reform Act of 1986 (Pub. L. 99-514). As initially enacted, section 6334(a)(10) provided an exemption from levy for certain service-connected disability payments. These included compensation payable for service-connected disability or death under 38 U.S.C., chapter 11, subchapters II (wartime disability compensation), IV (peacetime disability compensation), or VI (general compensation provisions), and for general benefits under 38 U.S.C., chapters 21 (specially adapted housing for disabled veterans), 31 (vocation rehabilitation), 32, (post-Vietnam era Veterans' educational assistance), 34 (veterans' education assistance), 35 (survivors' and dependents' educational assistance), 37 (home, condominium, and mobile home loans), or 39 (automobiles and adaptive equipment for certain disabled veterans and members of the armed forces). TAMRA amended section 6334(a)(10) to add exemptions for service-connected disability payments under 38 U.S.C., chapter 11, subchapters III (wartime death compensation), or V (peacetime death compensation), 38 U.S.C. chapter 13 (dependency and indemnity compensation for service connected deaths), and chapter 23 (burial benefits).

TAMRA amended section 6334(a)(9) to increase the amount of wages, salary and other income exempt from levy. Section 6334(a)(9) was added by section 1209(a) of the Tax Reform Act of 1976 (Pub. L. 94-455), and provided a minimum exemption for wages, salary or other income of an individual based on a specific dollar amount and the number of dependency exemptions to which the individual was entitled, under section 6334(d), for each payroll period. (Section 6334(d) was also added by section 1209(b) of the Tax Reform Act of 1976. Section 6334(a)(9) was amended by TEFRA section 347(a)(3), which increased the amount originally exempt from levy. TAMRA further increased the amount exempt from levy by amending section 6334(a)(9) to provide that the weekly wages exempt from levy equal the sum of the taxpayer's standard deductions and personal exemptions divided by 52. The taxpayer's standard deduction and personal exemptions are

based on a written and properly verified statement specifying facts necessary to determine the proper amount; in the absence of such a statement the taxpayer is to be treated as a married individual filing a separate return with only 1 personal exemption.

The proposed regulations amend § 301.6334-1, Property exempt from levy, to reflect the increases in the amount exempt from levy with respect to personal property and tools of a trade, business or profession, and to add the two additional types of property exempt from levy, namely, any amount payable to an individual as public assistance under title IV and title XVI of the Social Security Act, or under state or local welfare programs for which eligibility is determined by a needs or income test, and any amount payable to a participant under the Job Training Partnership Act.

The proposed regulations also amend § 301.6334-1 to reflect the exemption from levy of the service-connected disability payments added by TAMRA and those that were added prior to TAMRA but not reflected in the regulations.

The proposed regulations also amend § 301.6334-1 to provide that a taxpayer's principal residence is exempt from levy to the extent provided in section 6334(e) of the Code, unless the Service determines that the collection of tax is in jeopardy or unless the levy is approved in writing by a district director or an assistant district director.

The proposed regulations amend § 301.6334-2, Wages, salary and other income, and its examples. The amendments reflect the TAMRA and earlier amendments which provide that the amounts exempt from levy are determined by reference to the taxpayer's personal exemptions and standard deduction (based on the taxpayer's filing status), and any additional standard deductions due to blindness or age. Under the regulations, the taxpayer's personal exemptions and standard deduction are determined based on a signed and properly verified statement submitted to the district director. In the absence of such a statement, the taxpayer is treated as a married individual filing a separate return with only 1 personal exemption. The proposed regulations cross reference applicable provisions of the Internal Revenue Code for determining the filing status of an individual (sections 1 and 2), the deductions for personal exemptions (section 151), and the standard deduction (section 63). The regulations set forth the rules that govern the payment of exempt amounts to the taxpayer in cases where levy on

all sources is not made and where sources not levied upon are less than the exempt amount.

The proposed regulations completely revise the text of § 301.6331-3, Determination of exempt amount. The proposed regulations reflect the change in law defining the exempt amount of wages, salary and other income payable to or received by a taxpayer by reference to the standard deduction based on filing status (plus additional standard deductions based on blindness and age), and the aggregate amount of deductions for personal exemptions under section 151 in the taxable year in which such levy occurs. The proposed regulations also provide that, unless a taxpayer submits to the employer for forwarding to the district director a written and properly verified statement specifying the facts necessary to determine the exempt amount, the exempt amount is to be computed as if the taxpayer were a married individual filing a separate return with only 1 exemption. A new regulation, § 301.6334-4, Verified statements, has been added to provide the procedures that a taxpayer must follow and the information to be submitted to entitle a taxpayer to an amount exempt from levy on wages in excess of that amount to which a married individual filing a separate return with only 1 exemption would be entitled.

Proposed § 301.6331-3 defines the exempt amount for individuals who get paid on a daily, bi-weekly, weekly, semi-monthly and monthly basis. If an individual is paid on a different basis, the regulations provide that the exempt amount is computed so as to result in an exempt amount which as nearly as possible equals the exempt amount to which the individual would have been entitled over the period of time in the payments are made if the individual had ratably received such income on a weekly basis. For payment on a one-time basis, the regulations provide that the exempt amount is computed as if the taxpayer had been paid for the one-week period ending on the day of payment.

The proposed regulations take the position that for levies continuing into following years, the exempt amount does not automatically change if the standard deduction or the amount of the personal exemption changes by operation of law (such as by indexing or otherwise) for taxpayers in the taxpayer's filing status in a year following the taxable year in which the original notice of levy is served. However, the proposed regulations permit a taxpayer, if he or she submits a

new verified statement to his or her employer, to claim a new exempt amount based on law changes effective in the year in which the claim is filed. This provision permits a taxpayer to claim an additional exempt amount but avoids burdening businesses with the requirement to reexamine the statement of each employee who files for exemption and automatically recompute a new exempt amount based on law changes alone.

The existing regulation § 301.6334-4, Determination of payroll period, and § 301.6334-5, Dependent exemption, as well as § 301.6334-6, Effective dates and § 301.6334-7, Suspension of temporary regulations, have been eliminated as superseded by current law or as unnecessary.

Effective Dates

The statutory amendments to which these regulations relate are effective with respect to levies made on or after July 1, 1989, and these regulations are proposed to be effective at the same time. Any reasonable attempt to comply with the statutory amendments prior to [the date that is 120 days after the date the final regulations are published in the Federal Register] will be considered as meeting the requirements of these regulations.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Appear at the Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing is scheduled to be held. See notice of public hearing published elsewhere in this issue of the Federal Register.

Drafting Information

The principal author of these proposed regulations is Robert A. Miller, Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Proposed Amendments to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is proposed to be amended as follows:

Paragraph. 1. The authority citation for part 301 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

§ 301.6334-1 [Amended]

Par. 2. Section 301.6334-1 is amended as follows:

1. In paragraph (a)(2), in the first sentence, "\$500" is removed and "\$1,650 (\$1,550 for levies issued prior to January 1, 1990)" added in its place.

2. In paragraph (a)(3), "\$250" is removed and "\$1,100 (\$1,050 for levies issued prior to January 1, 1990)" added in its place.

3. In paragraph (a)(8), the last sentence is removed.

4. In paragraph (a)(9), "§ 301.6334-6" is removed and "§ 301.6334-4" added in its place.

5. New paragraphs (a)(10) through (a)(13), (d) and (e) are added to read as follows:

§ 301.6334-1 Property exempt from levy.

(a) * * *

(10) *Certain service-connected disability payments.* Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code (U.S.C.)) disability benefit under:

(i) Subchapters II (wartime disability compensation), III (wartime death compensation), IV (peacetime disability compensation), V (peacetime death compensation) or VI (general compensation provisions) of chapter 11 of title 38, U.S.C.; or

(ii) Chapter 13 (dependency and indemnity compensation for service connected deaths), 21 (specially adapted

housing for disabled veterans), 23 (burial benefits), 31 (vocational rehabilitation), 32 (post-Vietnam era veterans' educational assistance), 34 (veterans' educational assistance), 35 (survivors' and dependents' educational assistance), 37 (home, condominium, and mobile home loans), or 39 (automobiles and adaptive equipment for certain disabled veterans and members of the armed forces) of title 38, U.S.C.

(11) *Certain public assistance payments.* Any amount payable to an individual as a recipient of public assistance under:

(i) Title IV (relating to aid to families with dependent children) or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) *Assistance under job training partnership act.* Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

(13) *Principal residence exempt in absence of certain approval or jeopardy.* Except to the extent provided in section 6334(e), the principal residence of the taxpayer (within the meaning of section 1034).

* * * * *

(d) *Levy allowed on principal residence.* The principal residence of a taxpayer is not exempt from levy if—

(1) A district director or an assistant district director personally approves, in writing, the levy on such property; or

(2) The district director determines that the collection of tax is in jeopardy.

(e) *Effective date.* These provisions are effective with respect to levies made on or after July 1, 1989.

Par. 3. Section 301.6334-2 is revised to read as follows:

§ 301.6334-2 Wages, salary and other income.

(a) *In general.* Under section 6334 (a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b) of this section) and how exempt amounts are to be paid to the taxpayer (paragraph (c) of this section). Section 301.6334-3 describes the sum that will be exempt from levy for each of the taxpayer's pay periods. Pay periods are

described in § 301.6334-4. For the amounts exempt from levy, see § 301.6334-3.

(b) *Eligible taxpayer income.* Only wages, salary or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under section 6334(a)(9). No amount of wages, salary or other income which is paid to the taxpayer before levy is made on the payor will be so exempt levy under section 6334(a)(9). The provisions of this paragraph (b) may be illustrated by the following example.

Example. Delinquent taxpayer A, an individual, is employed by the M Corporation and is paid wages on Friday of each week. Accordingly, A is paid wages on Friday, February 16, 1990. On Saturday, February 17, A deposits these wages into his personal checking account at Bank N. On Tuesday, February 20, a notice of levy is served on the M Corporation and also on Bank N. Amounts payable to A as wages on Friday, February 23, 1990, and any payday thereafter may be exempt from levy under section 6334(a)(9). No amount of wages A deposited in his account at Bank N on February 17, 1990, is exempt from levy under section 6334(a)(9).

(c) *Payment of exempt amounts to taxpayer—(1) From wages, salary or other sources where levy on all sources not made.* In the case of a taxpayer who has more than one source of wages, salary or other income, the district director may elect to levy on only one or more sources while leaving other sources of income free from levy. If the wages, salary or other income that the district director leaves free from levy equal or exceed the amount of which the taxpayer is entitled as an exemption from levy under section 6334(a)(9), computed in accordance with § 301.6334-3 (and are not otherwise exempt), the district director may treat no amount of the taxpayer's wages, salary or other income on which the district director elects to levy as exempt from levy. In such a case, the district director must notify the employer or other person upon whom the levy is served that no amount of the taxpayer's wages, salary or other income is exempt from levy. The employer or other person upon whom the levy is served may rely on such notification in paying over amounts pursuant to levy. In the absence of such notification from the district director, however, the employer or other person upon whom the levy is served shall determine the amount exempt from levy pursuant to § 301.6334-4 as if the employer or other person upon whom the levy is served is the only source of wages, salary, or other income. Amounts not exempt from levy are to be paid to the district director in accordance with the terms of

the levy. The provisions of this paragraph (c)(1) may be illustrated by the following example.

Example. Delinquent taxpayer C is an employee of O Corporation and is paid wages totaling \$450 on Friday of each week. C also performs services for P Corporation and is paid a salary of \$250 on Friday of each week. On Tuesday, February 20, 1990, a levy is served on O Corporation with respect to the wages payable to C. A levy is not served on P Corporation. C's filing status is single and C is entitled to 1 personal exemption. Under § 301.6334-3(d), C is entitled to an exemption from levy under 6334(a)(9) totaling \$101.92 for each weekly pay period. However, because levy has not been made on C's salary paid by the P Corporation (\$250 per week) and that salary exceeds the weekly amount (\$101.29) to which C is entitled as exempt from levy, the district director may treat no amount of C's wages paid by O Corporation as exempt from levy. If the district director requires such treatment, the district director may notify O Corporation that no amount of C's wages is exempt from levy and O Corporation may rely on such notification; in the absence of such notification O Corporation must treat \$101.92 as exempt from levy.

(2) *Where sources not levied upon are less than exempt amount.* If the taxpayer's income upon which the district director does not levy is less than the amount to which the taxpayer is entitled as exempt from levy, then an additional amount, determined to be exempt from levy pursuant to § 301.6334-3, may be paid to the taxpayer from the sources of wages, salary or other income upon which levy has been made. The district director must designate those wages, salary or other income from which the exempt amount is to be paid to the taxpayer, and must notify the employer or other person upon whom the levy is served of the amount of the taxpayer's wages, salary or other income that is exempt from levy. The employer or other person may rely on such notification in paying over amounts pursuant to the levy. In the absence of such notification from the district director, the employer or other person upon whom the levy is served shall determine the amount exempt from levy pursuant to § 301.6334-3 as if that employer or other person upon whom the levy is served is the only source of wages, salary or other income. Amounts not exempt from levy are to be paid to the district director in accordance with the terms of the levy. The provisions of this paragraph (c)(2) may be illustrated by the following example.

Example. Delinquent taxpayer C is an employee of O Corporation and is paid wages totaling \$50 on Friday of each week. C also performs services for P Corporation and is paid a salary of \$75 on Friday of each week. On Tuesday, February 20, 1990, a levy is served on O Corporation and P Corporation

with respect to the wages and salary of C. C's filing status is single and C is entitled to 1 personal exemption. Under § 301.6334-3(d), C is entitled to an exemption from levy under section 6334(a)(9) totalling \$101.92 for each weekly pay period. The district director may notify P Corporation that only \$51.92 of C's wages is exempt from levy and P Corporation may rely on such notification; in the absence of such notification, P Corporation must treat the entire \$75 salary as exempt from levy.

(d) *Effective date.* These provisions are effective with respect to levies made on or after July 1, 1989.

Par. 4. Section 301.6334-3 is revised to read as follows:

§ 301.6334-3 Determination of exempt amount.

(a) *Individuals paid on weekly basis.* In the case of any individual who is paid or receives all of his or her wages, salary, and other income on a weekly basis, the amount of wages, salary, and other income payable to or received by him or her during any week that is exempt from levy under section 6334(a)(9) is the exempt amount.

(b) *Term defined.* The term *exempt amount* means an amount equal to—

- (1) The sum of—
 - (i) The standard deduction (including additional standard deductions on account of age or blindness); and
 - (ii) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(2) Divided by 52.

(c) *Written and properly verified statement.* Unless the taxpayer submits to the employer for forwarding to the district director a written and properly verified statement (as described in § 301.6334-4) specifying the facts necessary to determine the proper amount under paragraphs (b)(1)(i) and (ii) of this section, paragraphs (b)(1)(i) and (ii) of this section shall be applied as if the taxpayer were a married individual filing a separate return with only 1 exemption.

(d) *Individuals paid on basis other than weekly—(1) In general.* In the case of an individual who is paid or receives wages, salary, and other income other than on a weekly basis, the amount payable to that individual during any applicable pay period that is exempt from levy under section 6334(a)(9) is the amount that as nearly as possible will result in the same total exemption from levy for such individual over that period of time other than weekly as that to which the individual would have been entitled under paragraph (b) of this section if, during such period of time, the individual were paid or received such

wages, salary, and other income on a regular weekly basis.

(2) *Specific pay periods other than weekly.* The exempt amount of wages, salary and other income payable to or received by an individual during an applicable pay period other than weekly shall equal:

(i) The sum of—

(A) The standard deduction (including additional standard deductions on account of age or blindness); and

(B) The aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs;

(ii) Divided by—

(A) 360 in the case of a daily pay period;

(B) 26 in the case of a bi-weekly pay period;

(C) 24 in the case of a semi-monthly pay period; and

(D) 12 in the case of a monthly pay period.

(3) *One-time basis.* The exempt amount of wages, salary, and other income payable to or received by an individual on a one-time basis shall be computed as if the taxpayer were paid or received the wages, salary, or other income for the one-week period ending on the day of payment. For example, if the taxpayer's exempt amount per week (as determined under paragraph (b) of this section) is \$100 and the taxpayer is paid \$2,000 for work begun and completed in the preceding 2 month period, \$1,900 is subject to levy.

(e) *Levies continuing into following years.* The exempt amount is computed on the basis of the standard deduction (including additional standard deductions on account of age or blindness) for the taxpayer's filing status and the amount of the deduction for a personal exemption in effect in the taxable year in which the original notice of levy is served. Unless the taxpayer submits a new verified statement in accordance with § 301.6334-4, the exempt amount remains the same for pay periods following the pay period in which the notice of levy is served even if there is a change in the taxpayer's factual situation or a change by operation of law (such as by indexing or otherwise) to the standard deduction or personal exemption amounts.

(f) *Effective date.* These provisions are effective with respect to levies made on or after July 1, 1989.

Par. 5. Section 301.6334-4 is revised to read as follows:

§ 301.6334-4 Verified statements.

(a) *In general.* For purposes of §§ 301.6334-2 and 301.6334-3, the

amount of wages, salary or other income that is exempt from levy shall be determined on the basis of a written and properly verified statement submitted by the taxpayer to his or her employer for submission to the district director specifying the facts necessary to determine the standard deduction and the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which the levy is served. In the absence of submission of such statement, the amount that is exempt from levy shall be determined as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

(b) *Content of statement.* The statement in paragraph (a) of this section shall be a written statement signed under penalty of perjury, and dated, containing the following information:

(1) The filing status of the taxpayer as either:

(i) Single;

(ii) Married filing a joint return;

(iii) Married filing a separate return;

(iv) Head of household; or

(v) Qualifying widow or widower with dependent child;

(2) The name, relationship, and Social Security Number of each individual whom the taxpayer can claim as a personal exemption on the taxpayer's income tax return; and

(3) Any additional standard deductions that the taxpayer can claim on account of age (65 or older) or blindness on the taxpayer's income tax return.

(c) *Submission of verified statement—*

(1) *Obligation of employer.* An employer upon whom a notice of levy for wages, salary or other income of a taxpayer is served shall promptly notify the taxpayer of the fact that a notice of levy has been served. Unless otherwise indicated on the face of the notice of levy, the employer must request the taxpayer to provide the employer with a written statement signed under penalty of perjury, and dated, containing the information set forth in paragraph (b) of this section, and this statement must be submitted to the district director. The employer must submit this statement to the district director at the time the employer first responds to the notice of levy.

(2) *Submission by taxpayer.* The taxpayer shall provide the employer upon whom the notice of levy has been served with a verified statement complying with paragraph (b) of this section. Unless the taxpayer provides a verified statement, the amount that is exempt from levy shall be determined as

if the taxpayer were a married individual filing a separate return with only 1 exemption.

(3) *Additional statements.* A taxpayer may submit a verified statement to his or her employer at any time. Except as otherwise provided in paragraph (d) of this section, such verified statement will be effective for any payment of wages, salary, or other income made after the date of submission and will replace any previously submitted verified statement. The employer shall provide the district director with the statement on the next occasion on which the employer responds to the notice of levy.

(d) *Effect of verified statement—*(1) A verified statement submitted by an employee is effective upon receipt by the employer, and the employer is required to compute the exempt amount on the basis of the information contained in the verified statement unless notified to the contrary by the Internal Revenue Service.

(2) The Internal Revenue Service may find that a verified statement submitted by an employee contains a materially incorrect statement, or it may determine, after written request to the employee for verification of information contained in the verified statement, that it lacks sufficient information to determine whether the verified statement is correct. If the Internal Revenue Service so finds or determines, and notifies the employer in writing that the verified statement is defective, upon receipt of notice the employer shall consider the verified statement to be defective for purposes of computing the exempt amount.

(3) If the Internal Revenue Service notifies the employer that the verified statement is defective, the Internal Revenue Service will, based upon its finding, advise the employer that the employer is to compute the exempt amount as if no verified statement had been submitted by the employee or will describe upon what basis the exempt amount is to be computed. The Internal Revenue Service will also specify which Internal Revenue Service office to contact for further information.

(4) In addition to any notice furnished to the employer for the employer's use, the Internal Revenue Service will provide the employer with a copy for the employee of each notice it furnishes the employer.

(5) The employer shall promptly furnish the employee with a copy of any Internal Revenue Service notice with respect to a verified statement submitted by the employee.

(6) Once paragraph (d) (3) of this section applies, the employer shall

continue to compute the exempt amount on the basis of the written notice from the Internal Revenue Service until the Internal Revenue Service by written notice advises the employer to compute the exempt amount on the basis of a new verified statement (as described in paragraph (d)(7) of this section) and revokes its earlier written notice.

(7) The employee may submit a new verified statement together with a written explanation of any circumstances of the employee which have changed since the Internal Revenue Service's earlier written notice, or any other circumstances or reasons as justification or support for the claims made by the employee on the new verified statement. The employee may submit the new verified statement and written explanation either—

(i) To the Internal Revenue Service office specified in the notice furnished to the employer under paragraph (d)(3) of this section; or

(ii) To the employer, who shall forward the new verified statement and written explanation to the Internal Revenue Service office specified in the notice earlier furnished to the employer on the next occasion on which the employer responds to the notice of levy.

(e) *Effective date:* These provisions are effective with respect to levies made on or after July 1, 1989.

§§ 301.6334-5—301.6334-7 [Removed]

Par. 6. Sections 301.6334-5 through 301.6334-7 are removed.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.
[FR Doc. 92-11134 Filed 5-26-92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 301

[GL-173-89]

RIN 1545-AN46

Property Exempt from Levy; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations regarding property which is exempt from levy by increasing existing dollar amounts for specific exempt property, adding additional types of property to the list of exempt property, and exempting a taxpayer's principal residence from levy unless jeopardy is determined or unless the levy is approved in writing by the district director or assistant district director.

DATES: The public hearing will be held on Friday, August 21, 1992, beginning at 1 p.m. Requests to speak and outlines of oral comments must be received by Friday, July 31, 1992.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Internal Revenue Service Building, Seventh Floor, 7400 Corridor, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines or oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [GL-173-89], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (26 CFR part 301) under section 6334 of the Internal Revenue Code. These regulations appear in the proposed rules section of this issue of the *Federal Register*.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, July 31, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 12:45 p.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Cynthia E. Grigsby,

*Alternate Federal Register Liaison Officer,
Assistant Chief Counsel (Corporate).*

[FR Doc. 92-12232 Filed 5-26-92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAGPS No. CA 29-1-5505; FRL 4136-2]

Approval and Promulgation of Implementation Plans, California State Implementation Plan Revision, Sacramento Area; Ozone Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Environmental Council of Sacramento (ECOS) and others brought suit in 1987 against the U.S. Environmental Protection Agency to compel the Agency to disapprove the Sacramento portion of the California State Implementation Plan (SIP) for ozone and to promulgate in its place a federal implementation plan (FIP). EPA disapproved the Sacramento ozone SIP and reached an agreement with ECOS on a schedule for promulgation of a FIP. This agreement has been modified recently and now provides that EPA will publish an Advance Notice of Proposed Rulemaking listing measures, with estimated emissions reductions, that the Agency will include in any FIP proposal it may subsequently publish.

In this document, EPA requests comment on the proposed measures, as well as on the Agency's marketable emissions reduction approach for regulating certain stationary and area sources.

DATES: Comments must be received on or before June 26, 1992.

ADDRESSES: Comments may be mailed to: Regional Administrator, Attention: Plans Development Section (A-2-2), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

A docket containing material relevant to this notice is located at the address below. Interested persons may inspect the docket on weekdays between 9 a.m. and 4 p.m. EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Jan Taradash, Office of Regional Counsel, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 (415) 744-1335.

SUPPLEMENTARY INFORMATION:

I. Background

A. Lawsuit Background

The Environmental Council of Sacramento and the Sierra Club

(collectively, ECOS) brought suit in 1987 against EPA to compel the Agency to disapprove the Sacramento portion of the California SIP because it failed to include a demonstration of attainment of the National Ambient Air Quality Standard (NAAQS) for ozone by the end of 1987, as required by the Clean Air Act, as amended in 1977. Further, ECOS sought to compel EPA to promulgate, in place of the SIP, a FIP for the Sacramento nonattainment area.¹ EPA disapproved the Sacramento ozone SIP on December 1, 1988 (53 FR 48535) and reached an agreement with ECOS on a schedule for promulgation of a FIP or, in the alternative, approval of a SIP submitted by the State of California.

In an essentially identical case, the Coalition for Clean Air sued EPA for failure to promulgate a FIP for the Los Angeles (LA) area. EPA entered into a similar settlement agreement committing the Agency to promulgate a FIP for ozone and carbon monoxide for LA. For further background on the Sacramento lawsuit and the history of the Sacramento ozone SIP, see 55 FR 12669 (April 5, 1990).

B. Effect of the Clean Air Act Amendments of 1990

In November of 1990, Congress enacted major amendments to the Clean Air Act, largely to address the continuing failure of many metropolitan areas to attain the NAAQS. The amended Act classifies ozone nonattainment areas by the seriousness of their nonattainment problems, and establishes extended deadlines for such areas keyed to their classifications. The amended Act also imposes significant new planning requirements on ozone nonattainment areas, burdens which increase in relation to the classification and attainment date of the area.

In light of the significant overhaul of the Act, EPA concluded that it was no longer obligated to promulgate FIPs based on disapprovals under the preamended Act. Consequently, EPA moved in both Sacramento and LA FIP cases to have the respective district courts vacate the settlement agreements committing EPA to promulgate the FIPs.

The Central District of California agreed with EPA, and vacated the settlement agreement obligating EPA to promulgate a FIP for LA. See *Coalition for Clean Air v. EPA*, 762 F. Supp. 1399 (C.D. Cal. 1991). This case has been

appealed to the United States Court of Appeals for the Ninth Circuit. The Eastern District of California, on the other hand, disagreed with EPA, and denied EPA's motion to vacate the settlement agreement in the Sacramento case. *ECOS v. EPA*, No. 87-420, slip op. (E.D. Cal. Dec. 2, 1991). EPA has appealed this case to the Ninth Circuit.

C. Current Status of Settlement Agreement

Following the district court decision in *ECOS*, EPA and ECOS negotiated a modification to the settlement agreement. The parties agreed that the forthcoming Ninth Circuit decision in *Coalition for Clean Air* will likely determine whether EPA has a current obligation to promulgate a FIP to attain the ozone NAAQS in the Sacramento area. Under the terms of the modified settlement, EPA's fulfillment of the revised schedule for FIP promulgation now depends on either a Ninth Circuit decision that clearly establishes whether EPA has an obligation to proceed with a FIP in the Sacramento case, or, in the event of a disagreement between EPA and ECOS on the impact of the Ninth Circuit decision on the Sacramento case, such a decision by the Eastern District. In addition, the modified agreement provides that, in the interim, EPA will publish this Advance Notice of Proposed Rulemaking (ANPRM) listing control measures that the Agency will include in any Notice of Proposed Rulemaking for the Sacramento FIP it may subsequently publish pursuant to the revised schedule. EPA agreed to rank these control measures in the ANPRM and to estimate emission reductions from each measure based on current information. See 57 FR 10749 (March 30, 1992.)

II. Proposed FIP Control Measures

A. Evaluation of Potential Control Measures

Should EPA propose a FIP for Sacramento, EPA will include in that FIP all measures necessary to demonstrate timely attainment of the ozone standard pursuant to the settlement agreement.² EPA believes that such a FIP need not cover any of the measures that states are required by the amended Act to implement, because EPA has no current obligation to adopt such measures at this time. See section 110(c)(1) of the CAA.

In order to identify source categories in the Sacramento area that will have

significant emissions in future years, EPA used the most recent baseyear emissions inventory, a 1989 average annual day planning inventory by county prepared by the California Air Resources Board (CARB). Projecting this inventory to a future attainment year (1999 has been chosen as the most likely year) requires adjustments to CARB's growth and control factors to incorporate: (1) Current State and local control requirements (see discussion immediately below), and (2) corrected 1991 projections prepared by the Sacramento Area Council of Governments (SACOG) regarding population, motor vehicles, trips, vehicle miles traveled, and other activity indicators. The docket for this notice includes copies of the CARB, Sacramento Metropolitan Air Quality Management District, and SACOG reports and data tables, along with an EPA Technical Support Document that explains EPA's adjustments. The Technical Support Document also discusses possible sources of error in both the baseyear inventory and the projections.

The FIP must reduce to an attainment level areawide emissions that remain after application of presently adopted State and local control measures. Therefore, the control factors used in this analysis incorporate credits for reductions that will be achieved by existing State and local regulations including, most notably, the California Motor Vehicle Control Program, the California Clean Fuels and Low Emission Vehicles Program, the California nonroad engine and vehicle standards, and the California VOC regulations for consumer products.³ No credit was assigned, however, to any proposed State or local regulations that have not yet been fully adopted.

B. Emission Reduction Estimates

The emission reduction estimates are presented as tons of VOC per day for an

¹ At the time of the lawsuit, the Sacramento nonattainment area included Sacramento County, Yolo County, and portions of Placer and Solano Counties. The Sacramento nonattainment area boundaries have since been extended to include portions of Sutter and El Dorado Counties. See 58 FR 56694, 56728 (November 6, 1991).

² This effort will build on existing State and local controls that have been previously approved into the SIP.

³ Over the past three years, CARB has adopted significant enhancements to its motor vehicle and fuels requirements. See, for example, 57 FR 909, January 9, 1992, notice of opportunity to comment on proposed waiver of Section 209(b) federal preemption for recent amendments to California's motor vehicle emission standards and test procedures to phase-in substantially more stringent "low-emission vehicle" standards for light and medium-duty vehicles. CARB has also recently adopted controls for nonroad engines and vehicles. See, for example, 56 FR 45868, September 6, 1991, proposed waiver of Section 209(e)(1) federal preemption for California's utility and lawn and garden equipment engine exhaust emission standards and test procedures. Finally, CARB has adopted standards for approximately 30 consumer product categories (CARB adoptions of November 8, 1989; October 11, 1990; and December 13, 1991).

average weekday. The reductions are from the 1999 emissions inventory estimate, as described above in ILA. The range of emission reductions reflects uncertainties in baseline emissions data or growth and control factors for the source categories.

EPA expects the further information will be available in the future to allow greater precision in reduction estimates by the time of FIP proposal. In addition, estimated emission reductions may be revised in the future either to reflect the specialized emissions inventory prepared for the Sacramento gridded dispersion modeling analysis or to approximate a typical ozone season weekday.⁴ EPA will correct the reduction estimates to correct for rule effectiveness, and EPA may make other adjustments to: (1) Approximate more precisely the appropriate FIP boundary and rule penetration; (2) further refine the motor vehicle emissions model; (3) exclude nonmethane hydrocarbon compounds (such as ethane) which are incorporated in CARB's inventory but considered by EPA to be exempt (i.e., of low reactivity) as ozone precursors; and (4) utilize the 1990 census and projections based on this data.

C. FIP Control Approach for Stationary and Area Sources

EPA intends to propose for stationary and area source categories a marketable emission reduction approach utilizing emission caps and a declining balance of emissions.⁵ EPA proposes to allow compliance either through reductions made at the source or through purchase of surplus reductions from other sources within the area. EPA proposes to allow emissions trading across source categories as long as the universe of sources that are subject to the Reasonably Available Control Technology (RACT) requirements of the Act, in the aggregate, achieve the equivalent of RACT level emission reductions on a daily basis. EPA proposes to set for each stationary and area source category an annual reduction requirement of 15 percent per

year for the period 1995–1999, yielding over this 5-year period a 75 percent reduction from baseline actual emissions. Based on available information, EPA believes that this rate of reduction, in combination with other SIP–FIP controls, will achieve expeditious attainment of the ozone NAAQS.

D. FIP Control Approach for Motor Vehicles

For areas with high design values (such as Sacramento), attainment of the ozone NAAQS raises complex issues with respect to motor vehicle emissions reductions. Various approaches to achieving these reductions are possible, each with its own area-specific questions of technical and economic feasibility, public mobility, and social equity. EPA believes that State, regional, and local agencies are in the best position to make these difficult choices of approach, within the constraints of the Clean Air Act, which prescribes some measures as mandatory.

EPA intends to work closely with the involved California agencies to help ensure that necessary emissions reductions and required control measures are in fact reflected in the plans submitted by the State for the Sacramento area. California has already adopted aggressive controls for almost all classes of mobile sources, including low-emission vehicles and clean fuels. Moreover, regional and local Sacramento agencies are developing transportation and land use measures to reduce mobile source emissions still further. These agencies also have the option to overcontrol stationary and area sources in order to reduce the burden of control on motor vehicles.

The vehicles manufactured today are unconditionally dependent on properly functioning emission controls to keep pollution levels low. EPA believes that an enhanced motor vehicle inspection and maintenance (I/M) program is critically important to ensure that cars in-use are properly maintained. In comparison to existing I/M programs, an enhanced program covers more of the vehicles in operation, employs inspection methods which are better at finding high-emitting vehicles, and has additional features to better assure that all vehicles both for exhaust and evaporative emissions are tested properly and effectively repaired. Therefore, EPA concludes that an enhanced I/M program, incorporating transient exhaust tests and evaporative pressure and purge tests could achieve substantial reductions from the motor vehicle category that would supplement

anticipated reductions from currently adopted State rules. EPA's list of proposed FIP measures includes such an I/M program.

E. List of Measures—Introduction

Under the terms of the settlement agreement, EPA has committed to identify in the ANPRM the measures it will propose in any Notice of Proposed Rulemaking for the Sacramento FIP. EPA has selected the measures below for this purpose. However, the FIP control measure selection reflected in this ANPRM was completed in advance of expected updated and corrected emissions projections and gridded dispersion modeling analyses. Additional or corrected information from these and other ongoing planning activities may illustrate the cost effectiveness and appropriateness of these and other control measures. Given these possibilities, and, potentially, other relevant factors that may come to the Agency's attention, EPA intends to propose the controls listed in the ANPRM, but may also propose an alternative package of measures based on new or better information or progress by State and local agencies in adopting their own control measures.

For any of the source categories listed in this ANPRM that might ultimately be covered by national rules or guidance (e.g., issued by EPA under authority of section 183(e) of the Act), EPA will attempt to harmonize the FIP and national requirements to minimize any unnecessary burdens that might result from a source being subject to both a national and a FIP rule in the Sacramento nonattainment area.

F. Prioritized List of Measures with Estimated Reductions of VOC from adjusted 1999 baseline

1. Enhanced Inspection and Maintenance Program—prohibit the registration of passenger vehicles and light-duty trucks unless emissions of hydrocarbons and nitrogen oxides meet the enhanced inspection and maintenance test standards achievable with high-technology transient exhaust tests and evaporative pressure and purge tests or the equivalent. Heavy duty trucks and motorcycles will be required to meet similar high-technology requirements or stringent steady state testing, as appropriate. (7.0–13.0 tpd)
2. Architectural Coatings—marketable emission reduction rule. (8.5–10.7 tpd)
3. Pesticides—marketable emission reduction rule. (6.7–9.1 tpd)
4. Surface Preparation/Cleanup Solvents—marketable emission reduction rule. (4.5–5.8 tpd)

⁴ Because emissions vary seasonally, seasonal allocations of an annual inventory are necessary to adjust for typical summertime temperatures and activity levels. Under contract to CARB, SAI is preparing an urban airshed modeling analysis of the broader Sacramento area. As part of this analysis, SAI is developing episode-specific emissions inventories.

⁵ One form of this marketplace compliance approach was described extensively in EPA's proposed ozone and CO FIP for the South Coast (see 55 FR 36507–8, September 5, 1990), which also contained detailed regulations applying this principle to VOC source categories, including those listed in this advance notice for Sacramento (see 55 FR 36545–36570).

5. Auto and Truck Refinishing—marketable emission reduction rule. (3.4–4.2 tpd)
6. Degreasing—marketable emission reduction rule. (3.5–4.1 tpd)
7. Asphalt Paving—marketable emission reduction rule. (2.5–3.2 tpd)
8. Commercial Baking—marketable emission reduction rule. (2.3–2.9 tpd)
9. Can and Coil Coating—marketable emission reduction rule. (1.6–1.9 tpd)
10. Adhesives—marketable emission reduction rule. (1.1–1.4 tpd)
11. Printing—marketable emission reduction rule. (0.8–1.1 tpd)
12. Miscellaneous Metal Parts—marketable emission reduction rule. (0.5–0.7 tpd)

G. Solicitation of Comment

EPA solicits comment on the proposed list of control measures and on the general approach for stationary and area source control discussed in II.C., above.

Executive Order

Under Executive Order 12291, this action is not "major". It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone.

Authority: 40 U.S.C. 7401–7671q.

Dated: May 15, 1992.

Henry F. Habicht

Acting Administrator.

[FR Doc. 92–12176 Filed 5–26–92; 8:45 am]

BILLING CODE 5560–50–M

40 CFR Parts 122, 123, and 501

[4136–1]

National Pollutant Discharge Elimination System Sewage Sludge Permit Regulations; State Sludge Management Program Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 2, 1989, the U.S. Environmental Protection Agency (EPA) promulgated State sewage sludge management program regulations (40 CFR part 501) as well as revisions to the National Pollutant Discharge Elimination System (NPDES) permit requirements and procedures (40 CFR parts 122, 123, and 124) to establish sewage sludge permitting and State sewage sludge program requirements (54 FR 18716) pursuant to section 405 of the Clean Water Act (CWA). Under these rules, publicly owned treatment works

(POTWs) and other treatment works treating domestic sewage (TWTDS) are required to submit permit applications within 120 days after the promulgation of standards (40 CFR 503) applicable to their sewage sludge use or disposal practice(s). The Agency expects to promulgate these standards later this summer. EPA estimates that up to 20,000 permit applications may be submitted to EPA at one time as a result of the current requirements. To facilitate the management of these applications, EPA is today proposing to revise these rules to stagger the submission of permit applications. Additionally, EPA is proposing to extend the time period during which the initial set of applications must be submitted from 120 days to 180 days after promulgation of Part 503.

DATES: Comments must be submitted on or before June 28, 1992.

ADDRESSES: Comments should be addressed to Pamela Mazakas, Permits Division (EN–336), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Pamela Mazakas, Permits Division (EN–336), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–6599.

SUPPLEMENTARY INFORMATION:

I. Background

- A. Water Quality Act of 1987
- B. EPA's Sewage Sludge Management Program

II. Discussion of Today's Proposed Rule:

- A. Permit Application Requirements
- B. Deadlines

III. Regulatory Development Process

- A. Executive Order 12291
- B. Paperwork Reduction Act
- C. Regulatory Flexibility Act

I. Background

Implementation of the Clean Water Act (CWA) has increased the extent to which wastewater is treated before discharge to surface waters. At publicly owned treatment works (POTWs), implementation of secondary treatment requirements under the National Pollutant Discharge Elimination System (NPDES) program, under section 402 of the CWA, has improved effluent quality while increasing the amount of sewage sludge being generated.

A. Water Quality Act of 1987

Section 406 of the Water Quality Act of 1987, which amended section 405 of the CWA, established a comprehensive program for reducing the risks to human health and the environment from the use or disposal of sewage sludge. The revisions to the CWA underscored EPA's obligation to promulgate

standards for sewage sludge that protect public health and the environment from reasonably anticipated adverse effects of pollutants in sewage sludge during its use or disposal. Furthermore, the 1987 amendments required that all NPDES permits issued to POTWs and other treatment works treating domestic sewage (TWTDS) contain conditions implementing sewage sludge standards, unless those standards are included in a permit issued under Subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research and Sanctuaries Act, the Clean Air Act, or under a State program approved for administering a section 405(f) sewage sludge permitting program. The amendments also provided that the Administrator may issue separate permits that implement the sewage sludge requirements to treatment works that are not subject to section 402 of the CWA or to any of the other listed permit programs or approved State programs. Moreover, the amendments provided that the standards for use or disposal are enforceable directly against any user or disposer of sewage sludge under section 405(e) of the CWA. In other words, a TWTDS must comply with the standards by the statutory compliance deadlines whether or not a permit incorporating the standards has been issued to the TWTDS.

B. EPA's Sewage Sludge Management Program

EPA proposed State sewage sludge management program regulations on February 4, 1986 (51 FR 4458). This proposal, however, was issued prior to the February 1987 amendments to the CWA that gave new direction for the regulation of sewage sludge management activities. The proposed regulations were modified to reflect this new direction and were repropounded on March 9, 1988 (53 FR 7642) and promulgated on May 2, 1989 (54 FR 18716). These regulations establish permit requirements and procedures as well as requirements for States wishing to implement approved sewage sludge management programs as either part of their NPDES programs or under separate authority. These regulations establish the programmatic framework for implementing the technical standards for sewage sludge use or disposal.

Central to the sewage sludge permitting program is the development of standards that protect human health and the environment from reasonably anticipated adverse effects of pollutants in sewage sludge that is used or disposed. On February 6, 1989 (54 FR

5746), EPA proposed standards for the use or disposal of sewage sludge if the sewage sludge is applied to the land, distributed and marketed, placed in sludge-only landfills (monofills) or surface disposal sites, or fired in a sewage sludge incinerator. When promulgated, the standards will be codified at 40 CFR part 503.

On November 9, 1990 (55 FR 47210), EPA published a notice regarding the availability of information and data collected during the National Sewage Sludge Survey and the anticipated impacts of this information on the proposed Part 503 standards. At that time, EPA proposed a number of changes to the part 503 regulation as a result of the survey and as a consequence of information and comments provided by scientific peer review panels and public comments on the proposed part 503 rule. EPA expects to promulgate final part 503 standards on July 31, 1992.

II. Discussion of Today's Proposed Rule

A. Permit Application Requirements

Under the current sewage sludge permit program regulations (§§ 122.21(c)(2)(i) and 501.15(d)(1)(ii)(A)), any POTW with an existing NPDES permit must submit permit application information when its next application for NPDES permit renewal is due or within 120 days of promulgation of an applicable sewage sludge standard, whichever comes first. The preamble discussion (54 FR 18737) made it clear that all POTWs covered by the part 503 regulation, had to submit permit applications within this 120 day period. Under §§ 122.21(c)(2)(ii) and 501.15(d)(1)(ii)(B), any other existing TWTDS, not subject to the NPDES program (i.e., "sludge-only facilities"), must also submit the permit application information within 120 days of promulgation of an applicable sewage sludge standard or upon request of the Director. For TWTDS commencing operation after an applicable part 503 standard is promulgated, the regulations (§§ 122.21(c)(2)(iii) and 501.15(d)(1)(ii)(C)) require that permit applications be submitted at least 180 days prior to the date proposed for commencing operations.

Under the current requirements, approximately 16,000 POTWs and three to five thousand other TWTDS would need to submit application information within 120 days after promulgation of part 503. EPA's original intent was to use the information from permit applications to identify priorities for permit modification or issuance. Several changes have occurred since

promulgation of these requirements that make this approach less necessary or practical.

First, the EPA is working to enhance the direct enforceability of the part 503 standards. This could ensure an immediate minimum level of regulation for all TWTDS regardless of whether they have a permit or whether sewage sludge conditions are part of an existing permit. Permits are still necessary, however, and play a major role in the overall scheme of the national sewage sludge management program. For example, permits may be needed to tailor requirements to address areas with particular environmental concerns. Although part 503 could provide general self-implementing standards for most TWTDS, some standards may need to be developed based on site-specific conditions (e.g., metal limits for sewage sludge fired in a sewage sludge incinerator). The most effective means for establishing standards based on site-specific factors is through permits. Permits also establish general duties of permittees and add certainty to the permittee's obligations. Furthermore, permits are an effective means of bringing TWTDS not already addressed under the NPDES regulations into the program. Today's proposed rule does not establish when an applicant may seek standards based on site factors. Instead, the availability of site-specific limits will be determined in the forthcoming part 503 regulation.

Second, as a result of the National Sewage Sludge Survey, as well as peer review and public comment on the proposed part 503 rulemaking, EPA has improved knowledge of the prevalence and relative risks of different sewage sludge use or disposal practices. As a result, the Agency is better equipped to direct permitting activities to those treatment works requiring priority attention.

Third, EPA is concerned about effectively using limited resources. Completing an initial screening of up to 20,000 applications would be a monumental task and the Agency does not believe it to be feasible within a short time period. Further, much of the information submitted within 120 days of part 503's promulgation may be outdated by the time work can actually begin in evaluating the information and developing permits. Consequently, TWTDS may need to submit new/updated information.

In light of the discussion above, EPA is proposing a phased approach to permit application submittals. In the first phase, EPA is proposing to focus on all TWTDS required to have (or

requesting) site-specific pollutant limits to be provided in part 503. This first phase includes several types of TWTDS but targets, in particular, sewage sludge incinerators. Focusing on sewage sludge incinerators first is appropriate because available data indicate that these facilities pose the greatest risk to human health and the environment.

Under today's proposal, site-specific requests would be considered after this first round of permit applications only for good cause. Examples of good cause would include instances where a TWTDS does not have information when an applicable sewage sludge standard is promulgated that site-specific pollutant limits are necessary. For example, if a TWTDS changes its surface disposal site to a site for which site-specific pollutant limits under part 503 are necessary, the TWTDS would have good cause to apply for such limits either through a permit modification or application filed within 180 days of becoming aware that the second site needs site-specific pollutant limits.

Some TWTDS are not currently subject to the current NPDES program for effluent discharges (sludge-only facilities). EPA does not have an inventory of these sludge-only TWTDS. Therefore, one of EPA's goals is to identify these TWTDS in the second phase of information submittals. Again, the self-implementing provisions of part 503 would protect public health and the environment in the short term. Additionally, the permitting authority maintains the authority to require any TWTDS to submit full permit applications at any time if it determines a permit is necessary to protect public health and the environment.

Instead of requiring an immediate submittal of a complete application from these TWTDS, EPA is proposing to require the submittal of limited background information within one year of promulgation of an applicable sewage sludge use or disposal standard. (To the extent these TWTDS are required to have, or want to request, site-specific limits, they must come forward during the first phase and submit permit applications within 180 days of promulgation of an applicable sewage sludge use or disposal standard.)

EPA is proposing that these sludge-only TWTDS submit the following information to the Director:

- (1) Name, mailing address and location of the TWTDS;
- (2) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;

(3) A description of the sewage sludge use or disposal practices (including, where applicable, the location of any sites where sewage sludge is transferred for treatment, use, or disposal, as well as the name of the applicator or other contractor who applies the sewage sludge to land if different from the TWTDS, and the name of any distributors if the sewage sludge is sold or given away in a bag or similar enclosure for application to the land, if different from the TWTDS);

(4) Annual amount of sewage sludge generated, treated, used or disposed (dry weight basis); and

(5) The most recent data the TWTDS may have on the quality of the sewage sludge.

EPA is seeking comments on whether this information is sufficient to establish a priority scheme for permitting these TWTDS.

To clarify when sludge-only facilities must submit permit application information, EPA is considering the ultimate use or disposal of a generator's sewage sludge to be the generator's use or disposal practice—even if the sewage sludge use or disposal is carried out by someone else. Therefore, sludge-only TWTDS will have to submit permit application information within one year after promulgation of part 503 (according to the proposed revisions to the implementation regulations) if the sludge they generate is ultimately land applied, incinerated in a sewage sludge incinerator, or placed in a surface disposal site. For example, if a sludge-only TWTDS generates sewage sludge and sends that sludge to someone else's sewage sludge incinerator, the generating TWTDS will still have to submit permit application information within one year after promulgation of part 503. (In this case, the incinerator will also be considered a TWTDS and will be required to submit permit application information as well.)

The third phase consists of TWTDS with NPDES permits not addressed under the first phase. These TWTDS would be expected to submit the application information in accordance with NPDES permit renewal procedures. Such procedures require permit

applications at least 180 days before the NPDES permit is due to expire. Public health and the environment are still protected in the short term by the self-implementing provisions of part 503. Furthermore, if EPA determines that it is necessary to require sewage sludge application information and to reopen a permit before renewal, it may do so at its discretion under the authority of 40 CFR 122.62(a) (3) and (7) to protect human health or the environment.

It is important to note that the focus of this proposal is on the submittal of permit applications only. Compliance with part 503 is still mandatory, under section 405(d)(2)(D) of the CWA, as expeditiously as possible, but in no case later than one year after publication (or two years if construction is required) regardless of a TWTDS's permit status. Furthermore, today's proposal does not interfere with the permitting authority's discretion to set priorities for issuing permits.

EPA will be responsible for issuing permits that implement the sewage sludge use or disposal standards, unless those standards are implemented through certain other Federal permits or permits issued by a State with an EPA-approved sewage sludge management program. Because no States have received EPA approval of their State sewage sludge management programs yet, all application information must be submitted directly to the appropriate EPA Regional offices, unless the facility has been directed otherwise by EPA.

For consistency, EPA is also proposing to include these provisions in 40 CFR 123.25(a)(4) by cross-referencing the part 122 provisions. This means that States which seek approval of a modification to their NPDES program to regulate sewage sludge use or disposal would be expected to have comparable regulations as part of their programs.

B. Deadlines

Because EPA is proposing to focus the application requirement on those TWTDS required to have (or requesting) site-specific pollutant limits, the 120-day time period currently provided for under the regulations may be insufficient to generate the necessary information. For

this reason, EPA is proposing to extend the time period to 180 days after promulgation of part 503. This time period was generally not an issue when the regulations were first proposed. Now that EPA has a better understanding of the likely part 503 requirements, the Agency has determined that 120 days may be too restrictive and that 180 days would be more appropriate. For example, sewage sludge incinerators may need to submit air dispersion data and conduct control efficiency tests (trial burns) that could take a considerable period of time to complete. EPA wants to avoid having incomplete applications submitted because of inadequate amounts of time in which to generate the required information. Additionally, the 180 day time period is consistent with the current time period established for new facilities to submit permit applications. For example, a TWTDS proposing to commence operation must submit an application at least 180 days prior to commencing operations (§§ 122.21(c)(2)(iii) and 501.15(d)(1)(ii)(C)) and those TWTDS with existing NPDES permits must submit new applications at least 180 days prior to their existing permit's expiration date (§ 122.21(d)(1) and (2)). (EPA is not proposing to change either of these time frames.)

After today's amendments, all TWTDS will generally be required to submit permit applications within 180 days of a triggering event. For consistency, EPA is also proposing to modify § 122.1(b)(4). This provision states that a user or disposer of sewage sludge designated as a TWTDS must submit a permit application within 120 days of being notified by the Regional Administrator that a permit is required. For the same reasons stated in the paragraph above, EPA is proposing to extend this time period from 120 days to 180 days after a TWTDS is notified that a permit is required. Again, for consistency, EPA is proposing to include the extended deadlines into part 123 as well.

For a summary of the general changes made by today's proposal, see Table II-1.

TABLE II-1.—SUMMARY OF GENERAL CHANGES MADE BY TODAY'S PROPOSAL

	Existing requirements	Proposed requirements
Facilities required to have (or requesting) site-specific limits:		
NPDES permittees.....	Submit sludge application information within 120 days after Part 503 promulgation.	Submit sludge application information within 180 days after Part 503 promulgation.*
Non-NPDES permittees ("sludge-only").	Submit sludge application information within 120 days after Part 503 promulgation.	Submit sludge application information within 180 days after Part 503 promulgation.*

TABLE II-1.—SUMMARY OF GENERAL CHANGES MADE BY TODAY'S PROPOSAL—Continued

	Existing requirements	Proposed requirements
Facilities not required to have (or requesting) site-specific limits:		
NPDES permittees.....	Submit sludge application information within 120 days after Part 503 promulgation.	Submit sludge application information with next NPDES permit renewal application.
Non-NPDES permittees ("sludge-only").	Submit sludge application information within 120 days after Part 503 promulgation.	Submit limited sludge information within 1 year after Part 503 promulgation.

*TWTDS may request site-specific pollutant limits later upon a showing of good cause.

III. Regulatory Development Process

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is major and, therefore, subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation that is likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in the costs or prices for consumers, individual industries, Federal, State and local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Today's proposal imposes no new criteria but rather lessens the burden for submitting permit applications. Instead of requiring the submission of all permit applications within 120 days after the promulgation of Part 503, the submission of applications is to be done in phases. This avoids the potential for a TWTDS to have to submit two applications because information became outdated before a permit could be written. Therefore, the proposals do not constitute a major rulemaking. These regulations were submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

The information collection requirements (ICR) for the existing regulations are covered by ICR #1237, which was approved in 1989. The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document (ICR #1237.05) has been prepared by EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch [PM-223Y], U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC

20460, or by calling (202) 260-2740.

Public reporting burden for this collection of information is estimated to vary from 4 to 5 hours per response, with an average of 4.83 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Submit comments on the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (PM-223Y), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of its rules on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's proposal most directly affects treatment works that use or dispose of sewage sludge that are already required to obtain permits under existing Federal or State programs. Today's proposal merely changes existing regulations to provide for the submittal of permit applications in phases. In most cases, small facilities will have additional time to submit their applications. Accordingly, I hereby certify pursuant to 5 U.S.C. 605(b) that these amendments will not have a significant impact on a substantial number of small entities.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Confidential business information, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control.

40 CFR Part 123

Confidential business information, Hazardous materials, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control, Penalties.

40 CFR Part 501

Confidential business information, Environmental protection, Reporting and recordkeeping requirements, Publicly owned treatment works, Sewage disposal, Waste treatment and disposal.

Dated: May 14, 1992.

William K. Reilly,
Administrator.

For the reasons set out in the preamble, Parts 122, 123, and 501 of 40 CFR Ch. I are amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.1 is proposed to be amended by revising the second sentence of paragraph (b) (4) to read as follows:

§ 122.1 Purpose and scope.

* * * * *

(b) * * *

(4) * * * Any person designated as a "treatment works treating domestic sewage" shall submit an application for a permit under § 122.21 within 180 days of being notified by the Regional

Administrator that a permit is required.

3. Section 122.21 is proposed to be amended by redesignating paragraph (c)(2)(iii) as (c)(2)(v); redesignating current paragraphs (c)(2)(i) and (ii) as (c)(2)(ii) and (iii) respectively and revising them; and adding new paragraphs (c)(2)(i) and (c)(2)(iv) to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

(c) * * *

(2) *Permits under section 405(f) of CWA.* (i) Any existing "treatment works treating domestic sewage" required to have, or requesting site-specific pollutant limits as provided in 40 CFR Part 503, must submit the permit application information required by paragraph (d)(3)(ii) of this section within 180 days after promulgation of a standard applicable to its sewage sludge use or disposal practice(s). After this 180 day period, "treatment works treating domestic sewage" may only apply for site-specific pollutant limits for good cause and such requests must be made within 180 days of becoming aware that good cause exists.

(ii) Any "treatment works treating domestic sewage" with a currently effective NPDES permit, not addressed under paragraph (c)(2)(i) of this section, must submit the application information required by paragraph (d)(3)(ii) of this section with the application submitted in accordance with paragraph (d) of this section.

(iii) Any other existing "treatment works treating domestic sewage" not addressed under paragraphs (c)(2)(i) or (ii) of this section must submit the information listed in paragraphs (c)(2)(iii)(A)-(E) of this section, to the Director within 1 year after promulgation of a standard applicable to its sewage sludge use or disposal practice(s). The Director shall determine when such "treatment works treating domestic sewage" must apply for a permit.

(A) Name, mailing address and location of the "treatment works treating domestic sewage;"

(B) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;

(C) A description of the sewage sludge use or disposal practices (including, where applicable, the location of any sites where sewage sludge is transferred for treatment, use, or disposal, as well as the name of the applicator or other

contractor who applies the sewage sludge to land, if different from the "treatment works treating domestic sewage," and the name of any distributors if the sewage sludge is sold or given away in a bag or similar enclosure for application to the land, if different from the "treatment works treating domestic sewage";

(D) Annual amount of sewage sludge generated, treated, used or disposed (dry weight basis); and

(E) The most recent data the "treatment works treating domestic sewage" may have on the quality of the sewage sludge.

(iv) Notwithstanding paragraphs (c)(2)(i), (ii), or (iii) of this section, the Director may require permit applications from any "treatment works treating domestic sewage" at any time if the Director determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

PART 123—STATE PROGRAM REQUIREMENTS

4. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

5. Section 123.25 is proposed to be amended by revising paragraph (a)(4) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(4) § 122.21(a)-(b), (c)(2), (e)-(j), and (l)-(o)—(Application for a permit);

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

6. The authority citation for part 501 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

7. Section 501.15 is proposed to be amended by redesignating paragraph (d)(1)(ii)(C) as (d)(1)(ii)(E); redesignating current paragraphs (d)(1)(ii)(A) and (B) as paragraphs (d)(1)(ii)(B) and (C) respectively and revising them; and adding new paragraphs (d)(1)(ii)(A) and (d)(1)(ii)(D) to read as follows:

§ 501.15 Requirements for permitting.

(d) * * *

(1) * * *

(ii) (A) Any existing "treatment works treating domestic sewage" required to have (or requesting) site-specific

pollutant limits as provided under 40 CFR part 503, must submit the permit application information required by paragraph (a)(2) of this section within 180 days after promulgation of a standard applicable to its sewage sludge use or disposal practice(s). After this 180 day period, "treatment works treating domestic sewage" may only apply for site-specific pollutant limits for good cause and such requests must be made within 180 days of becoming aware that good cause exists.

(B) Any "treatment works treating domestic sewage" with a currently effective NPDES permit, not addressed under paragraph (d)(1)(ii)(A) of this section, must submit the application information required by paragraph (a)(2) of this section when the next application for NPDES permit renewal is due.

(C) Any other existing "treatment works treating domestic sewage" not addressed under paragraphs (d)(1)(ii)(A) or (B) of this section must submit the information listed in paragraphs (d)(1)(ii)(C)(1)-(5) of this section, to the Director within one year after promulgation of a standard applicable to its sewage sludge use or disposal practice(s). The Director shall determine when such "treatment works treating domestic sewage" must apply for a permit.

(1) Name, mailing address and location of the "treatment works treating domestic sewage;"

(2) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public or other entity;

(3) A description of the sewage sludge use or disposal practices (including, where applicable, the location of any sites where sewage sludge is transferred for treatment, use, or disposal, as well as the name of the applicator or other contractor who applies the sewage sludge to land if different from the "treatment works treating domestic sewage," and the name of any distributors if the sewage sludge is sold or given away in a bag or similar enclosure for application to the land, if different from the "treatment works treating domestic sewage");

(4) Annual amount of sewage sludge generated, treated, used or disposed (dry weight basis); and

(5) The most recent data the "treatment works treating domestic sewage" may have on the quality of the sewage sludge.

(D) Notwithstanding paragraphs (d)(1)(ii)(A), (B), or (C) of this section, the Director may require permit applications from any "treatment works treating domestic sewage" at any time if

the Director determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

* * * * *

[FR Doc. 92-12177 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OE3898 and OE3908/P533; FRL-4005-1]

RIN 2070-AC18

Pesticide Tolerances for Oxyfluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the herbicide oxyfluorfen and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities cocoa beans and garbanzo beans. The proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP OE3898 and OE3908/P533], must be received on or before June 26, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions OE3898 and OE3908 to EPA on behalf of the named Agricultural Experiment Stations.

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of tolerances for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage at 0.05 part per million (ppm) in or on certain raw agricultural commodities as follows:

1. *PP OE3898.* Petition submitted on behalf of the Hawaii Agricultural Experiment Station proposing a tolerance for cocoa beans.

2. *PP OE3908.* Petition submitted on behalf of the California Agricultural Experiment Station proposing a tolerance for garbanzo beans.

The petitioner proposed that use of oxyfluorfen on garbanzo beans be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include:

1. A 2-year feeding study in dogs with a no-observed-effect level (NOEL) of 100 (equivalent to 2.5 milligrams (mg)/kilogram (kg)/day).

2. A developmental toxicity study in rats given gavage doses of 10, 100, and 1,000 mg/kg/day with NOEL's for maternal and developmental toxicity of 100 mg/kg/day. Developmental effects consisting of lower implantation efficiency, a higher resorption index, and a lower fetal viability incidence were observed at 1,000 mg/kg/day.

Maternal effects were also observed at 1,000 mg/kg/day (HDT) and may be responsible for the developmental effects observed at this level.

3. A rabbit developmental toxicity study with NOEL's for maternal and developmental toxicity of 10 mg/kg/day. A developmental effect, an increase in fused sternebrae, was observed at 30 mg/kg/day (highest dose tested). Maternal effects were also observed at 30 mg/kg/day and may be responsible for the developmental effects observed at this level.

4. A three-generation reproduction study in rats fed diets containing 2, 20, and 100 ppm with a NOEL for reproductive effects of 10 ppm (equivalent to 0.5 mg/kg/day). Effects were observed at 100 ppm as evidenced by decreases in fetal viability, fetal body weight, and maternal body weight.

5. Mutagenicity studies including a rat cytogenetic assay (technical oxyfluorfen), negative; *Salmonella* assays (technical grade), positive with and without activation in strains TA98, TA100, and TA1537; *Salmonella* assays (purified oxyfluorfen), negative with and without activation at concentrations up to 7,500 µg/plate in strains TA98, TA100, TA1535, and TA1537; mouse lymphoma assay (technical oxyfluorfen), positive with activation levels 2 to 4 times background at concentrations up to 40 µg/mL, negative (purified oxyfluorfen), without activation to 1,000 µg/mL; unscheduled DNA synthesis assays (technical and polar fraction), both negative, and host-mediated assay (technical grade), negative.

6. A 2-year chronic feeding/carcinogenicity study in rats fed diets containing 2, 40, and 800 ppm (the 800-ppm dosage level was raised to 1,600 ppm at week 57 of the study) with a NOEL of 40 ppm (equivalent to 2.0 mg/kg/day) based on minimal hypertrophy of liver cells. There were no carcinogenic effects observed under the conditions of the study at any dose level tested.

7. A 20-month chronic feeding/carcinogenicity study in CD-1 mice fed diets containing 2, 20, and 200 ppm with a NOEL of 2 ppm (equivalent to 0.3 mg/kg/day) for systemic effects. Oxyfluorfen was associated with significant positive dose-related trends for liver adenoma, carcinoma, and combined adenoma and/or carcinoma in male mice when compared with historical control data from CD-1 mouse studies of 20 to 22 months duration. There was no apparent effect on the latency period for tumor occurrence, and no compound-related increase in tumors was observed in female mice.

Based on a weight-of-the-evidence determination, the Agency has classified oxyfluorfen as a possible human carcinogen (Category C) with quantified risk. The qualitative categorization of carcinogenicity is based on the Agency's Guidelines for Carcinogenic Risk Assessment, published in the *Federal Register* of September 24, 1986 (51 FR 33992).

Although there was no compound-related increase in tumors observed in female mice or in male or female rats, and no evidence for a reduction in latency period for the time-to-liver tumor appearance in male mice, quantification of carcinogenic risk for oxyfluorfen is considered appropriate. The decision supporting a Category C classification with quantified risk is based on the significant positive dose-related trends in liver adenomas, carcinomas, and combined adenomas and/or carcinomas in male CD-1 mice. Supporting evidence includes a strong association of oxyfluorfen with diphenyl ether herbicides (a class of herbicides associated with evidence of carcinogenicity) and evidence of mutagenicity in the *Salmonella* and the mouse lymphoma assays.

A carcinogenic risk assessment for oxyfluorfen has been completed by the Agency based on the available information. The potential carcinogenic risk from dietary exposure resulting from existing uses of oxyfluorfen is calculated at 1.5×10^{-6} . The dietary risk assessment is based on a potency estimator (Q^1) of 0.128 (mg/kg/day)⁻¹. Dietary exposure is calculated at 0.000012 mg/kg/day based on the theoretical maximum residue contribution (TMRC) and anticipated residue contribution (ARC) estimates. TMRC values assume that 100 percent of the crops are treated and that the resulting residues are at tolerance levels. ARC values estimate expected dietary exposure based on actual residue levels that are anticipated on the treated commodities and percent of the crop treated.

Dietary exposure resulting from tolerance level residues in or on cocoa beans and garbanzo beans is estimated at 0.000002 mg/kg/day. The potential carcinogenic risk from dietary exposure to the proposed tolerance level residues for cocoa beans and garbanzo beans is calculated at 2.6×10^{-7} , a negligible increase.

The potential carcinogenic risk from residues of oxyfluorfen in the diet is expected to be less than calculated since data were not available to estimate the percent of crop treated for several commodities which theoretically contribute significant residues to the

diet. In the absence of these data, the Agency has assumed that 100 percent of the crop was treated.

There are no regulatory actions pending against this pesticide. Oxyfluorfen was the subject of a Special Review (formerly known as Rebuttable Presumption Against Registration), and a Notice of Determination was published in the *Federal Register* of June 23, 1982 (47 FR 27118). Oxyfluorfen was referred for review because pesticide products containing oxyfluorfen as an active ingredient were shown to be contaminated with perchloroethylene (PCE), which has been shown to produce liver tumors in mice. The Agency concluded that potential benefits from use of oxyfluorfen outweigh risks from PCE, provided products are produced with no more than 200 ppm PCE contaminant. The producer of oxyfluorfen has verified that oxyfluorfen formulations contain a maximum of 200 ppm PCE.

The nature of the residue is adequately understood. An adequate analytical method, gas chromatography, is available for enforcement purposes. The analytical methods for enforcing these tolerances have been published in the Pesticide Analytical Manual (PAM), Vol. II. There are currently no actions pending against the continued registration of this chemical.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein may request within 30 days after publication of this document in the *Federal Register* that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP OE3898 and OE3908/P533]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or

establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 10, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.381, paragraph (a) is amended by adding and alphabetically inserting the raw agricultural commodity cocoa beans, and paragraph (b) is amended by adding and alphabetically inserting the raw agricultural commodity garbanzo beans, to read as follows:

§ 180.381 Oxyfluorfen; tolerances for residues.

(a) * * *

Commodity	Parts per million
Cocoa beans.....	0.05

(b) * * *

Commodity	Parts per million
Beans, garbanzo.....	0.05

[FR Doc. 92-12184 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 271

[FRL 4136-6]

California; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Tentative determination on application of California for final authorization, extension of public comment period, rescheduled public hearing.

SUMMARY: EPA is extending the public comment period for comments on California's application for final authorization. EPA hereby gives notice of the rescheduling of its public hearing, which will be held on June 15, 1992. A notice published in the *Federal Register* on May 1, 1992 announced a tentative determination that California's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization, and announced a hearing date of June 3, 1992. The hearing has been rescheduled to June 15, 1992 to allow additional opportunity for public comment.

DATES: A public hearing is scheduled for 9 a.m., June 15, 1992.

All comments on California's final authorization application must be received by the close of business on June 15, 1992.

ADDRESSES: The hearing will be held at 75 Hawthorne St., first floor conference rooms, San Francisco, CA. California will participate in the public hearing held by EPA on this subject.

Copies of California's final authorization application are available during 8 a.m. to 5 p.m. at the following addresses for inspection and copying:

- Department of Toxic Substances Control Headquarters Office, Technical Reference Library, 4th Floor, P.O. Box 806, Sacramento, CA 95812-0806, Phone: (916) 324-5498; Contact Person: Florentino Castellon.

- U.S. EPA Region 9, Library, 13th floor, 75 Hawthorne St., San Francisco, CA 94105-3901, Phone: 415/744-1510; Contact person: Deborah Samuels.

Written comments should be sent to:

- Deirdre Nurre, H-2-3, California Project Officer, Environmental Protection Agency, 75 Hawthorne St., San Francisco, CA 94105; Phone: (415) 744-2105;

A copy of California's final authorization application is available for inspection only during 9 a.m. to 4 p.m. at:

- U.S. E.P.A., Office of Solid Waste, the RCRA Docket, room 2427, 401 M St. SW., Washington, DC, 20460, Phone: (202) 260-8327.

FOR FURTHER INFORMATION CONTACT: Deirdre Nurre, H-2-3, Program Development Section, EPA, 75 Hawthorne St., San Francisco, CA 94105; (415) 744-2106.

Dated: May 14, 1992.

Jeff Zelickson,
Director, Hazardous Waste Management
Division.

[FR Doc. 92-12299 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 31, 51, and 52

[FAR Case 91-36]

Federal Acquisition Regulation; Contract Air Fares

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; withdrawal.

SUMMARY: The proposed rule, published July 23, 1991, in the *Federal Register* (56 FR 33822), is hereby withdrawn. The rule proposed revisions to Federal Acquisition Regulation (FAR) 31.205-46(d), and 31.205-45(e)(2), added a new Subpart 51.3, Contractor Use of Government Discount Air Passenger Transportation Fares, and added a clause at 52.251-XX, Government Discount Air Passenger Transportation Fares.

The 41 respondents during the public comment period were overwhelmingly negative. The primary concerns were the high potential for program abuse in the absence of any enforcement safeguards, reduced revenues, and the substantial administrative burden the program would impose on participating parties. Due to the number and nature of the comments, and the inability to negotiate agreements with the major airlines, the decision was made to withdraw the rule.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson at (202) 501-4755.

List of Subjects in 48 CFR Parts 31, 51, and 52

Government procurement.

Dated: May 18, 1992.

Albert A. Vicchiolla,
Director, Office of Federal Acquisition Policy.

[FR Doc. 92-12268 Filed 5-26-92; 8:45 am]

BILLING CODE 6820-34-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1003

[Ex Parte No. 55 (Sub-No. 90)]

List of Forms

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to discontinue publication in the Code of Federal Regulations of a list of forms prescribed for use in Commission proceedings under subchapters A and B of chapter X. The list satisfies no legal requirement, and serves no useful purpose, because the information is available elsewhere in the rules. Its elimination will shorten and simplify our regulations.

DATES: Comments must be received by June 26, 1992.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. 55 (Sub-No. 90) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5312. (TDD for hearing impaired: (202) 927-5721)

SUPPLEMENTARY INFORMATION: The Commission has for decades published in the Code of Federal Regulations (CFR) what amounts to a catalog of current forms prescribed for use in the various Commission proceedings under Subchapters A and B of the rules (General Rules and Regulations and Rules of Practice). This listing is redundant since each required form is reproduced in the related CFR section. The requirement of section 552(a)(1)(C) of the Administrative Procedure Act for *Federal Register* publication of "descriptions of forms available or the places at which forms may be obtained . . ." does not require a list of forms. If, however, such a listing is shown to be needed, the regulations could provide that the Commission's Secretary will maintain it and make a copy available upon request.

We invite comments from interested persons on this proposal. We tentatively conclude that the proposed action will not have a substantial adverse impact upon a significant number of small entities.

This action will not significantly affect either the quality of the human

environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1003

Brokers, Freight forwarders, Insurance, Motor carriers, Securities, Surety bonds.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: May 19, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set out in the preamble, title 49, chapter X, part 1003 of the Code of Federal Regulations is proposed to be amended as follows:

Part 1003 is proposed to be revised to read as follows:

PART 1003—FORMS

Sec.

1003.1 General information.

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c), 49 U.S.C. 10321.

§ 1003.1 General information.

(a) Printed forms are prescribed for various applications under the Interstate Commerce Act and the Commission's regulations contained in this chapter.

(b) All prescribed forms include instructions for their completion.

(c) Copies of all prescribed forms except insurance forms are available upon request from the Office of the Secretary, Publications Unit, Interstate Commerce Commission, Washington, DC 20423.

[FR Doc. 92-12288 Filed 5-26-92; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1004

[Ex Parte No. 55 (Sub-No. 88)]

Interpretations and Routing Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to remove a longstanding rule of interpretation on return or inbound transportation of shipping containers (49 CFR 1004.1) as obsolete. This proposed rule is intended to make the Commission's regulations up to date.

DATES: Comments must be received by June 26, 1992.

ADDRESSES: Send an original and 10 copies of comments, referring to ex Parte No. 55 (Sub-No. 88) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5312; [TDD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: 49 CFR 1004.1 (former 49 CFR 1041.10) codifies a longstanding rule of interpretation that no specific operating authority is necessary for the return or inbound transportation of shipping containers if the carrier performed the outbound movement. It has been superseded by 49 U.S.C. 10526(a)(11), enacted as section 7(c) of the Motor Carrier Act of 1980, Public Law 96-296, which exempts from Commission jurisdiction, "used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles)." As the present rule

no longer reflects the law, and as no useful purpose would be served by repeating the provisions of the statute in the regulations, we propose to remove 49 CFR 1004.1 from the Code of Federal Regulations.

We invite comments from interested persons on this proposal.

This proposal does not change existing law. Thus, we tentatively conclude that it will not have a significant impact upon a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1004

Administrative practice and procedure, Motor carriers.

For the reasons stated in the preamble, title 49, chapter X, part 1004 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1004—INTERPRETATIONS AND ROUTING REGULATIONS

1. The authority citation for part 1004 continues to read as follows:

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553. Subpart C also issued under 49 U.S.C. 10922(h)(1)(A).

§ 1004.1 [Removed]

2. Section 1004.1 is proposed to be removed.

Decided: May 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-12289 Filed 5-26-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 57, No. 102

Wednesday, May 27, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[CN-92-005]

Advisory Committee on Universal Cotton Standards Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Committee on Universal Cotton Standards will meet at the Peabody Hotel, at 149 Union Avenue, in Memphis, Tennessee, beginning at 9 a.m., on June 11 and 12, 1992. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Dennis McNabb, Standards Section, Cotton Division, AMS, USDA, 4841 Summer Avenue, Memphis, TN 38122; (901) 766-2937.

SUPPLEMENTARY INFORMATION: The committee includes representatives of all segments of the U.S. cotton industry and the nineteen overseas associations that are signatories to the Universal Cotton Standards Agreement. The purpose of the meeting is: (1) To consider a proposal to change the application of the Universal Standards; the proposal, recommended by the

National Advisory Committee on Cotton Marketing, would separate grade into its main components of Color and leaf; and (2) to review freshly prepared Universal Cotton Standards for conformity with existing standards. The entire meeting is open to the public. Written comments may be submitted in advance or following the meeting to Mr. McNabb. Notice of this meeting is provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463).

Dated: May 20, 1992.
Kenneth C. Clayton,
Acting Administrator.
[FR Doc. 92-12244 Filed 5-26-92; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 92-075-1]

Receipt of Permit Application for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release genetically engineered organisms into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR 7 part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the application referenced in this notice, with any

confidential business information deleted, are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of this document by writing to the person listed under "FOR FURTHER INFORMATION CONTACT."

FOR FURTHER INFORMATION CONTACT:

Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests of Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release genetically engineered organisms into the environment:

Application	Applicant	Date received	Organisms	Field test locations
92-127-01.....	Ciba-Geigy Corporation	05-06-92	Corn plants genetically engineered to express a phosphinothricin acetyl transferase (PAT) gene for tolerance to phosphinothricin herbicides, and a delta-endo-toxin protein from <i>Bacillus thuringiensis</i> subsp. <i>kurstaki</i> strain HD-1 for resistance to lepidopteran insects.	Molokai County, Hawaii.

Done in Washington, DC, this 21st day of May 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12292 Filed 5-26-92; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Grand Island Advisory Commission Meeting

AGENCY: Forest Service, USDA.

ACTION: Grand Island Advisory Commission Meeting.

SUMMARY: The Grand Island Advisory Commission will meet on June 12, 1992 at 8 a.m. at the Munising Ranger District Office in Munising, Michigan. An agenda for the one day meeting will consist of a discussion of public involvement strategy for DEIS; further discussion of 55 acre development and further discussion on planning process from issuance of DEIS and implementation.

Interested member of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions about this meeting to Art Easterbrook, Staff Officer, Hiawatha National Forest, 2727 N. Lincoln Road, Escanaba, MI 49829, (906) 786-4062.

Dated: April 20, 1992.

Arthur L. Easterbrook,
Acting Forest Supervisor.

[FR Doc. 92-12265 Filed 5-26-92; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Kansas Advisory Committee to the U.S. Commission on Civil Rights will meet on June 12, 1992, from 10 a.m. until 2 p.m. at the Holiday Inn Holidome, 1616 West Crawford, Salina, Kansas 67401. The purpose of the meeting is for SAC orientation and program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426-5253, (TTY 816-426-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days

before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 19, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-12225 Filed 5-26-92; 8:45 am]

BILLING CODE 6335-01-M

Chicago Hearing

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Public Law 98-183, 97 Stat. 1301, as amended, that a three-day public hearing of the U.S. Commission on Civil Rights will commence on June 24, 1992, beginning at 9 a.m. at the Ralph Metcalfe Building located at 77 West Jackson, room 331, Chicago, Illinois.

The purpose of the hearing will be to collect information within the jurisdiction of the Commission, particularly concerning the Latino community in Chicago; minority access to credit, and racial and ethnic tensions.

The Commission is an independent, bipartisan, factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376-8105, (TDD 202-376-8116), at least five (5) working days before the scheduled date of the meeting.

Dated at Washington, DC, May 20, 1992.

Arthur A. Fletcher,
Chairperson.

[FR Doc. 92-12238 Filed 5-26-92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the

provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Local Government Finances (School Systems).

Form Number(s): F-33, F-331, F-33L1.

Agency Approval Number: 0607-0700.

Type of Request: Revision of a currently approved collection.

Burden: 3,038 hours.

Number of Respondents: 563.

Avg Hours Per Response: 5 hours and 24 minutes.

Needs and Uses: The Census Bureau collects financial data for public school systems as part of the Annual Survey of State and Local Government Finance. At the request of the National Center for Education Statistics (NCES), in 1991 the Census Bureau conducted the Pilot Survey for Local Education Agency Financial Information (OMB No. 0607-0715) to determine if additional financial data were available principally for federal, state, and local revenues and current operations. Based on the results of that survey and discussions with NCES, this submission proposes an expansion of the data we request from public school systems in four major areas: tuition and fees in local revenues; state aid by program under state revenues; federal revenue program detail; and character and object detail for support and other services. This expansion will allow the NCES to improve its analysis of elementary-secondary education programs. Data from this survey are incorporated with other local government finance data and entered into the national income accounts. Data are also used in long-established Bureau reports and provided to NCES.

Affected Public: State or local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 20, 1992.

Edward Michals,

Departmental Forms Clearance Officer,
Office of Management and Organization.

[FR Doc. 92-12267 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-07-F

Bureau of Export Administration

Sensors Technical Advisory Committee; Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held June 18, 1992, 9 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of COCOM Core List 6 (Sensors) export controls.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, member of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, TAC Staff/BXA/Rm. 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining

series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377-2583.

Dated: May 20, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92-12275 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-201-805, A-485-802, A-583-814, A-307-805]

Postponement of Final Determinations; Circular Welded Non-Alloy Steel Pipe From Mexico, Romania, Taiwan, and Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: May 27, 1992.

FOR FURTHER INFORMATION CONTACT:

David J. Goldberger or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4136 or 377-8922, respectively.

NOTICE OF POSTPONEMENT: On April 27, 28, and 29, 1992, and May 13, 1992, C.A. Conduven (Conduven) of Venezuela, HYLSA S.A. de C.V. (HYLSA) of Mexico, Metalexportimport of Romania, and Yieh Hsing Enterprise Co. Ltd. (Yieh Hsing) of Taiwan, respectively, requested that the Department postpone the final determinations in these investigations, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)). HYLSA, Metalexportimport, Yieh Hsing, and Conduven, respondents in these investigations, represent a significant proportion of exports of the subject merchandise from Mexico, Romania, Taiwan, and Venezuela, respectively.

Accordingly, we are postponing the date of the final determinations until not later than September 10, 1992.

In accordance with 19 CFR 353.38(b), we will hold public hearings to afford interested parties an opportunity to

comment on arguments raised in case or rebuttal briefs. We are rescheduling the public hearings announced in the preliminary determinations of sales at less than fair value, (57 FR 17888, 17890, 17892, and 17893, April 28, 1992). Tentatively, the hearing schedules are as follows:

Country	Hearing date	Time	Room
Taiwan.....	June 18, 1992.....	2 p.m.....	3606
Mexico.....	June 26, 1992.....	9:30 a.m.....	3708
Romania.....	July 22, 1992.....	2 p.m.....	3708
Venezuela.....	July 28, 1992.....	3:30 p.m.....	3708

All hearings will be held at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date and place of the hearings 48 hours prior to the scheduled time.

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than June 9, 1992, for the Taiwan hearing; June 17, 1992, for the Mexico hearing; July 13, 1992, for the Romania hearing; and July 17, 1992, for the Venezuela hearing. Rebuttal briefs must be submitted no later than June 16, June 24, July 20, and July 24, 1992, for Taiwan, Mexico, Romania, and Venezuela, respectively. Oral presentations will be limited to issues raised in the briefs in accordance with 19 CFR 353.38(b).

This notice is published pursuant to 19 CFR 353.20(b).

Dated: May 20, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-12324 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DS-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel in binational panel review of the final results of countervailing duty administrative review made by the Department of Commerce, International Trade Administration, Import Administration, respecting Live Swine from Canada, (Secretariat File No. USA-91-1904-03)

SUMMARY: By a decision dated May 19, 1992, the Binational Panel affirmed in part and remanded in part the Department of Commerce's final determination respecting Live Swine from Canada published in the *Federal Register* on June 21, 1991 (56 FR 28531). A copy of the complete Panel decision is available from the FTA Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 4012, 14th and Constitution Avenue, Washington DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the *Federal Register* on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedures for Article 1904 Binational Panel Reviews, published in the *Federal Register* on December 27, 1989 (54 FR 53165). The panel review in this matter was conducted in accordance with these Rules.

Background

On July 8, 1991, the Canadian Pork Council and its Members filed a Request for Panel Review with the United States Section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Panel review was requested of the final results of the countervailing duty administrative review respecting Live Swine From Canada made by the International Trade Administration, Import Administration, Import Administration File Number A-122-404. In addition, the Government of Canada and the Government Du Quebec filed Requests for Panel Review in this matter.

Complainant's challenged Commerce's determinations with respect to seven program:

- (1) The National Tripartite Stabilization Scheme for Hogs ("Tripartite");
 - (2) The Quebec Farm Income Stabilization Insurance Program ("FISI");
 - (3) The Saskatchewan Hog Assured Returns Program ("SHARP");
 - (4) The Alberta Crow Benefit Offset Program ("ACBOP");
 - (5) The British Columbia Feed Grain Market Development Program ("B.C. Feed Program");
 - (6) The British Columbia Farm Income Insurance Plan ("FIIP"); and,
- The Feed Freight Assistance Program ("FFA"). In addition, complainant P. Quintaine & Son Ltd. ("Quintaine") argued that the scope of the order should not include sows and boars. Finally, complainant Pryme Pork Ltd. ("Pryme")

(a) Challenged Commerce's refusal either to exclude weanlings from the scope of the order or to establish a separate rate (or subclass) for weanlings and

(b) Argued that it should have been assigned a separate company rate since it only exports weanlings to the United States.

Panel Decision

On the basis of the administrative record, the applicable law, the written submissions of the parties, and a hearing held on February 12, 1992, at which all parties were heard, the Panel rendered its decision on May 19, 1992, which affirmed in part and remanded in part the Commerce final determination. The Panel remanded the determinations on Tripartite, FISI, SHARP, ACBOP, FAA and establishment of a subclass for weanlings to Commerce for action consistent with the panel decision. Commerce's determinations on B.C. Feed Program and FIIP, and inclusion of weanlings within the scope of the order, were affirmed. Lastly, the Panel denied Pryme's request for a separate company rate and Quintaine's request to exclude sows and boars from the scope of the order.

Commerce was instructed to provide a determination on remand to the Panel within 60 days of the issuance of the decision (by no later than July 20, 1992).

Dated: May 20, 1992.

James R. Holbein,
United States Secretary, FTA Binational Secretariat.

[FR Doc. 92-12325 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-GT-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Decision of Panel in binational panel review of the determination on remand made by the U.S. Department of Commerce, International Trade Administration, Import Administration, respecting Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada, (Secretariat File No. USA-90-1904-01).

SUMMARY: By a Decision dated May 15, 1992, the Binational Panel affirmed in part and remanded in part the Department of Commerce's determination on remand concerning Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada filed with the Binational Secretariat on December 15, 1991. A copy of the complete panel decision is available from the FTA Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the *Federal Register* on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the *Federal Register* on December 27, 1989 (54 FR 53165). The panel review in this matter

was conducted in accordance with these Rules.

Background

On June 14, 1990 a Request for Panel Review of the final results of the antidumping duty administrative review made by the Department of Commerce (Commerce) was filed by Northern Fortress Ltd., the Canadian manufacturer, with the United States Section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Blaw Knox Construction Equipment Corporation, the American manufacturer, also challenged Commerce's final determination. Commerce responded to these challenges to its final determination by requesting a remand to enable it to correct errors in computation and to conduct verification of Federal Sales Tax (FST) payments and by requesting that its decision to use best information available (BIA) and its selection of the 30.61 percent margin as the BIA rate be affirmed.

On the basis of the administrative record, the applicable law, the written submissions of the parties, and a hearing held on March 14, 1991, at which all parties were heard, the Panel rendered a decision on May 24, 1991, which affirmed in part and remanded in part the Commerce final determination.

On December 15, 1991, the Department of Commerce filed its determination on remand. Both Northern Fortress and Blaw Knox requested review of the determination on remand under Rule 75 of the Rules, citing a number of grounds.

Panel Decision

On the basis of the administrative record on remand, the applicable law, the written submissions of the parties, and a hearing held on March 26, 1992, at which all parties were heard, the Panel rendered a decision on May 15, 1992, which affirmed in part and remanded in part the Commerce determination on remand.

The Panel remanded to Commerce for reconsideration its inclusion of Northern Fortress sales of allegedly non-Canadian goods, including verification of the information on which Commerce relies in determining the origin of such goods, if verification is promptly requested by Blaw Knox. The Panel affirmed the determination on remand in all other respects. Commerce was instructed to file a redetermination on remand within 60 days of the date of the Panel decision (by no later than July 14, 1992).

Dated: May 20, 1992.

James R. Holbein,
United States Secretary, FTA Binational
Secretariat.

[FR Doc 92-12326 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-GT-M

University of Cincinnati, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None Received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92-029. **Applicant:** University of Cincinnati, Cincinnati, OH 45221. **Instrument:** ICP Mass Spectrometer, Model PlasmaQuad. **Manufacturer:** VG Instruments, United Kingdom. **Intended Use:** See notice at 57 FR 11936, April 8, 1992. **Reasons:** The foreign instrument provides: (1) High vacuum capacity for use of mixed argon/helium as well as pure helium plasmas and (2) reduced pressure plasma and rf glow discharge sources.

Docket Number: 92-032. **Applicant:** U.S. Geological Survey, Denver, CO 80225. **Instrument:** Mass Spectrometer, Model MAT 262. **Manufacturer:** Finnigan MAT, Germany. **Intended Use:** See notice at 57 FR 11937, April 8, 1992. **Reasons:** The foreign instrument provides: (1) Four Faraday collectors with less than 15 ppm non-linearity over a 15-90 pA ion beam range, (2) a secondary electron multiplier for ion counting and (3) an abundance sensitivity less than 2×10^{-8} for uranium.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 92-12327 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DS-M

University of Miami School of Medicine, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-025. **Applicant:** University of Miami School of Medicine, Miami, FL 33136. **Instrument:** Electron Microscope, Model CM 10. **Manufacturer:** N.V. Philips, The Netherlands. **Intended Use:** See notice at 57 FR 11936, April 8, 1992. **Application received by Commissioner of Customs:** February 21, 1992.

Docket Number: 92-031. **Applicant:** University of California—Lawrence Berkeley Laboratory, Berkeley, CA 94720. **Instrument:** Electron Microscope, Model EM-002B. **Manufacturer:** TOPCON Technologies Inc., Japan. **Intended Use:** See notice at 57 FR 11936, April 8, 1992. **Order Date:** July 26, 1991.

Docket Number: 92-033. **Applicant:** University of Missouri—Kansas City, Kansas City, MO 64108-2795. **Instrument:** Scanning Transmission Electron Microscope, Model CM 12. **Manufacturer:** N.V. Philips, The Netherlands. **Intended Use:** See notice at 57 FR 11937, April 8, 1992. **Application Received by Commissioner of Customs:** March 5, 1992.

Comments: None received. **Decision:** Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. **Reasons:** Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 92-12328 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Virginia Electric and Power Company From an Objection by the State of North Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Public Hearing—Virginia Electric and Power Company Consistency Appeal (Lake Gaston).

On October 3, 1991, the Secretary of Commerce (Secretary) received a notice of appeal from the Virginia Electric and Power Company (Appellant). The Appellant is appealing to the Secretary under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the State of North Carolina Department of Environment, Health and Natural Resources (State) to the Appellant's consistency certification that its proposal for a Federal Energy Regulatory Commission license amendment involving the permanent, consumptive withdrawal of approximately 60,000,000 gallons of water each day from Lake Gaston, (located just north of the Virginia-North Carolina border,) is consistent with the State's coastal zone management program.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). (section 307(c)(3)(A)). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR § 930.121 or § 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I and Ground II. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that: (1) The proposed activity furthers one or more of the national objectives or purposes contained in §§ 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water

Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security," the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

A public hearing has been scheduled to address the findings the Secretary must make for each appeal as set forth in the regulations at 15 CFR 930.121 and 930.122. The public hearing will be held on Saturday, June 13, 1992, from 10 a.m. until 3 p.m., at the Virginia Beach Pavilion located at 1000 19th Street in Virginia Beach, Virginia. Persons interested in speaking at the hearing regarding any of the above criteria are required to register on the day of the hearing at the Virginia Beach Pavilion. Registration of speakers will begin at 9 a.m. Oral comments will be received on a first-come-first-served basis. Individuals representing groups will be limited to five minutes. Comments from the general public will be limited to three minutes.

FOR ADDITIONAL INFORMATION CONTACT: Mary Gray Holt, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606-4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: May 20, 1992.

Thomas A. Campbell,
General Counsel.

[FR Doc. 92-12280 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

May 20, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending

visa requirements to require manufacturer's identification.

EFFECTIVE DATE: June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the Republic of Turkey is being amended, for goods produced or manufactured in Turkey and exported from Turkey on and after June 1, 1992, to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be provided on the textile visa document.

The name and address of the company should be placed somewhere on the front of the original export visa document, not within the visa stamp. It should be preceded by the label "manufacturer's identification" or "M.I.D." The name is the full name of the company which performs the substantial part of the manufacturing of the product. The address should include the street name or P.O. Box number (if available), and the city and/or province where the manufacturing occurs. In the case of a shipment covered by a single export visa document containing products which are each manufactured by a number of different companies, the name and address of each company involved should be listed on the export visa document. If additional space is needed for listing the name and address of the firms, the back of the export visa document may be used. Responsible officials will make their best efforts to determine the name and address of a firm or firms which best meet the basic criterion of being an actual manufacturer of the product. This information should appear on the export visa document prior to export from Turkey. However, for goods exported during the period June 1, 1992 through June 30, 1992, the importer may type this required information on the front of the original visa document. For goods exported on or after June 1, 1992 without the M.I.D. on the export visa document, a new visa containing this information must be obtained.

See 52 FR 6859, published on March 5, 1987.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 20, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 2, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey which were not properly visaed by the Government of the Republic of Turkey.

Effective on June 1, 1992, for goods produced or manufactured in Turkey and exported from Turkey on and after June 1, 1992, you are directed to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be placed on the textile visa document. This information shall appear on the export visa document prior to export from Turkey. However, for goods exported during the period June 1, 1992 through June 30, 1992, the importer may type this required information on the front of the original visa document.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa which includes the identification of the manufacturer on the visa document shall be denied entry and a new visa containing this information must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-12281 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DR-F

Establishment and Amendment of Import Limits and Amendment of Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan; Correction

May 21, 1992.

Beginning on page 14391 of the Federal Register notice published on April 20, 1992 (57 FR 14390), second column, correct the limits in the table under "Adjusted twelve-month limit," for the following categories:

Category	Adjusted twelve-month limit
638/639.....	6,565,058 dozen.
640.....	1,058,909 dozen.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-12323 Filed 5-26-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of the Meeting: 8-10 June 1992

Time: 0800-1630 Daily

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on the "Comanche International" will meet during the period 8-10 June to draft their final report. The report will address the mission of the group, potential cooperation for future helicopter programs and issues surrounding the development of the Comanche (RAH-66) and the Tiger helicopters. Classified and proprietary information belonging to private industry will also be discussed. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information. (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-12332 Filed 5-26-92; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Billing Credits Contracts and Availability of Addendum Three Contract Development Generation Proposals of the Draft Administrative Record

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Intent to sign Billing Credit Contracts for three generation projects. Notice of availability of Addendum Three—Contract

Development Generation Proposals, of the Draft Administrative Record for the Billing Credits Test Program. BPA File No.: BCR-8.

SUMMARY: BPA, Pursuant to its Billing Credits Policy, as amended August 30, 1984 (48 FR 20275), and its Billing Credit Solicitation July 1990, has negotiated contracts with 11 public bodies or cooperative utilities for proposed generation projects. Proposed generation projects include hydroelectric, biomass, and cogeneration projects to produce electricity. BPA intends, at this time, to sign three generation contracts.

The Draft Administrative Record, previously released for public review, contains background on BPA's Billing Credits Policy, the need for billing credit resources, a summary of the Billing Credit Solicitation, a summary of the evaluation process for proposals, and environmental considerations. The Draft Administrative Record includes two Appendices: Appendix A—Billing Credit Solicitation, and Appendix B—Issue Resolution Log. Addendum One of the Draft Administrative Record—Customer System Efficiency Improvements (CSEI) Contract Development, and Amendment A to Addendum One provide specific information about CSEI projects and how billing credits are determined. These were also previously released for public review (57 FR 1161 and 57 FR 9250).

Addendum Two—Conservation Proposals Contract Development, provides specific information about conservation proposals and how billing credits are determined. This was previously released for public review (57 FR 9250).

Responsible Official: Paul Norman, Billing Credits Project Manager, is the official responsible for BPA's Generation Billing Credits contracts, the Draft Administrative Record, and addenda.

DATES: BPA will receive comments on the Billing Credit generation contracts for 30 days. Payment or credits will not be made or granted until 90 days after the date of a Federal Register notice announcing that the contracts have been signed.

FOR FURTHER INFORMATION CONTACT: For a copy of the Generation Billing Credits Contracts and Addendum Three—Generation Proposals Contract Development, please contact the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Copies of the Draft Administrative Record, Appendix A—Billing Credit Solicitation, and Appendix B—Issue Resolution Log;

Addendum One—Customer System Efficiency Improvements Contract Development and Amendment A; and Addendum Two—Conservation Proposals Contract Development are also available.

Telephone numbers, voice/TTY, for the Public Involvement Office are 503-230-3478 in Portland, or toll-free 800-622-4519.

Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Manager, 1500 NE Irving Street, room 243, Portland, Oregon 97208, 503-230-4551

Mr. Robert Laffel, Eugene District Manager, Federal Building, room 208, 211 East Seventh Street, Eugene, Oregon 97401, 503-465-6952

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509-353-2518

Ms. Carol S. Fleischman, Spokane District Manager, room 112 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509-353-3279

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060

Mr. Ronald K. Rodewald, Wenatchee District Manager, 301 Yakima Street, room 307, Wenatchee, Washington 98807, 509-662-4377

Mr. Terence G. Esvelt, Puget Sound Area manager, 201 Queen Avenue North, suite 2400 Seattle, Washington 98109, 206-553-4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226

Mr. Jim Normandeau, Boise District Manager, Federal Building, 304 North Eighth Street, room 450, Boise, Idaho 83702, 208-334-9137

Mr. Richard J. Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208-523-2706

SUPPLEMENTARY INFORMATION:

I. Relevant Statutory Provisions

BPA is a self-financing power marketing agency within the United States Department of Energy. BPA was established by the Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, to market wholesale power from Bonneville Dam and to construct power lines for the transmission of this power to load centers in the Pacific Northwest. BPA sells wholesale electric power and energy to 126 utilities, 13 direct service industrial customers (DSIs), and several government agencies.

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) directs BPA to serve the net power requirements of any regional electric utility requesting service, and to serve existing DSIs in the Pacific Northwest. 16 U.S.C. 839c and d.

Although BPA cannot own or construct electric generating facilities,

the Northwest Power Act directs BPA to acquire rights to the output or capability of electric power resources to serve increased customer requirements. See 16 U.S.C. 839b(1). The Northwest Power Act requires BPA to grant credits to BPA's customers on their power bills for electric power resources that reduce the Administrator's obligation to acquire resources to meet BPA's electric power requirements. 16 U.S.C. 839d(h). Billing credits may be adjustments to customers' power bills or equivalent cash payments. Resources eligible for billing credits include conservation and generation.

II. Background

BPA's Billing Credits Policy interprets the billing credits provisions in the Northwest Power Act, prescribes criteria for customer and resource eligibility, and establishes procedures for granting billing credits.

BPA's 1990 Resource Program focused on choosing near-term resource actions for Fiscal Years 1992 and 1993. After receiving comments from customers on the draft 1990 Resource Program that suggested BPA use billing credits, BPA chose a resource strategy that included billing credits. BPA then developed a Solicitation requesting proposals for billing credits resources. Billing credits provide a way to shift some of the risk for resource development to utilities and others, which was an objective of the chosen strategy in the 1990 Resource Program. In July 1990, BPA released the Solicitation.

It proposed to test the billing credit approach for acquiring energy resources by granting 50 average megawatts of billing credits to eligible resources. BPA's objective in the test was to ensure that the billing credit mechanism is workable for BPA customers.

III. Generation Proposals

The proposals submitted in response to the Billing Credit Solicitation were divided into two groups, conservation and generation resources.

IV. Description of the Generation Proposals

Seventeen generation proposals representing 11 public bodies or cooperative utilities were submitted pursuant to the July 1990 Billing Credit Solicitation. Proposed generation projects included hydroelectric, biomass, and cogeneration projects to produce electricity. Five of the 17 proposals were withdrawn during the evaluation process and three proposals were rejected for not meeting the threshold criteria.

BPA proposes to sign contracts with Eugene Water and Electric Board (EWEB) for the Smith Creek Hydroelectric Project and for the Steam Plant Project, and with Emerald People's Utility District (Emerald PUD) for its Short Mountain Landfill Project.

The other generation proposals are in varying stages of environmental review. Contract discussions are pending the outcome of the National Environmental Policy Act Review. After the environmental work is completed for each project, a decision will be made by BPA as to BPA's intention to sign contracts for these projects.

The other utilities and their proposed projects are:

1. Public Utility District No. 1 of Snohomish County, Washington—Willbridge Cogeneration Project
 2. Public Utility District No. 1 of Snohomish County, Washington—Barclay Hydroelectric Project
 3. The City of Tacoma, Washington—Wynoochee Hydroelectric Project
 4. The City of Seattle, Washington—South Fork Tolt Project
 5. Public Utility District No. 1 of Skamania County, Washington—Cottrell Hydroelectric project
 6. Lower Valley Power and Light, Inc.—Afton Hydroelectric Project
- EWEB's Smith Creek Hydroelectric Project and Steam Plant Project, and Emerald PUD's Short Mountain Landfill Project meet the qualifications for billing credits, and BPA has completed its obligations under NEPA. The Customers have complied with all applicable environmental requirements in the construction of the project and will comply during the operation phase.

V. Methodology for Determining Billing Credits

The payment or billing credit (BC) for these Customers will be calculated and paid monthly as follows:

As EWEB is a Computed Requirements Customer under their Power Sales Contract with BPA, the monthly BC will be the lesser of the Adjusted Alternative Cost (AC) or Net Cost (NC) multiplied by the monthly amounts of Assured Energy Capability of the Billing Credit Resource, less the amount of Priority Firm Rate dollars the customer avoids paying as a result of the Billing Credit Resource. There is no true-up; this is because the Customer is required to maintain the Assured Energy Capability for the Billing Credit Resource, as it must do for all its firm resources under the Power Sales Contract.

As Emerald PUD is a Metered Requirements Customer under their

Power Sales Contract with BPA, the monthly BC will be equal to the lesser of the AC or NC multiplied by the monthly amounts of estimated firm energy as specified in the contract, less the amount of PF Rate dollars the Customer avoids paying as a result of the Billing Credit Resource. The estimated firm energy is compared to the actual metered generation at the end of each year, and a "true-up" payment is made by the appropriate party.

Issued in Portland, Oregon, on May 14, 1992.

Deputy Administrator,

Jack Robertson.

[FR Doc. 92-12319 Filed 5-26-92; 8:45 am]

BILLING CODE 6450-01-M

Decision to Sign Proposed Billing Credits Contracts

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of decision. BPA File No.: BCR-7. BPA announces its decision to sign Billing Credit Contracts for Conservation Activities and Customer System Efficiency Improvements (CSEI) in response to the BPA Billing Credit Solicitation.

SUMMARY: BPA, in compliance with its Billing Credits Policy, as amended August 30, 1984, (48 FR 20275), and its Billing Credit Solicitation July 1990, signed four contracts with three public bodies or cooperative utilities for proposed conservation projects. The Conservation projects include lighting retrofits and municipal water system improvements.

Also pursuant to its Billing Credits Policy, BPA has signed a contract with one public body or cooperative utility for one CSEI project. This CSEI project provides for the reconductoring of distribution circuits undertaken to reduce electric power consumption or losses, as a result of an increase in the efficiency of electric use, production, transmission, or distribution.

The Draft Administrative Record contains background on BPA's Billing Credits Policy, the need for billing credit resources, a summary of the Billing Credit Solicitation, a summary of the evaluation process for proposals, and environmental considerations. The Administrative Record includes two appendices: Appendix A—Billing Credit Solicitation, and Appendix B—Issue Resolution Log. Addendum One of the Administrative Record—Customer System Efficiency Improvements Contract Development and Amendment A to Addendum One provide specific information about CSEI projects and

how billing credits for these projects are determined. Addendum Two of the Draft Administrative Record—Contract Development Conservation Proposals, provides specific information about the conservation projects and how billing credits are determined.

BPA announced its intent to sign the conservation contracts, and the availability of the contracts, and Addendum Two in a **Federal Register** notice (57 FR 9250). These documents were available for review for 30 days.

BPA announced its intent to sign the CSEI contracts, and the availability of the contracts, Draft Administrative Record, appendices, Addendum One and Amendment A to Addendum One in two **Federal Register** notices (57 FR 1161 and 57 FR 9250). These documents were available for review for 30 days.

Responsible Official: Paul Norman, Billing Credits Project Manager, is the official responsible for BPA's Billing Credit contracts, the Administrative Record, and addenda.

DATES: Payment or credits will not be made or granted until 90 days after the date of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: For a copy of a specific Conservation or CSEI Billing Credits Contract(s), the Administrative Record, Appendices A—Billing Credit solicitation, and Appendix B—Issue Resolution Log, Addendum One—Customer System Efficiency Improvements Contract Development, Conservation Proposals, please contact the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

Telephone numbers, voice/TTY, for the Public Involvement Office are 503-230-2478 in Portland, or toll-free 800-622-4519.

Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Management, 1500 NE Irving Street, room 243, Portland, Oregon 97208, 503-230-4551

Mr. Robert Laffel, Eugene District Manager, Federal Building, room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-465-6952

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509-353-2518

Ms. Carol S. Fleischman, Spokane District Manager, room 112 U.S. Court House, 920 W. Riverside Avenue, Spokane, Washington 99201, 509-353-3279

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060

Mr. Ronald K. Rodewald, Wenatchee District Manager, 301 Yakima Street, room 307, Wenatchee, Washington 98807, 509-662-4377

Mr. Terence G. Esvelt, Puget Sound Area Manager, 201 Queen Avenue North, suite 400, Seattle, Washington 98109, 206-553-4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226

Mr. Jim Normandeau, Boise District Manager, Federal Building, 304 North Eighth Street, room 450, Boise, Idaho 83702, 208-334-9137

Mr. Richard J. Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208-523-2706

SUPPLEMENTARY INFORMATION:

I. Background

BPA is a self-financing power marketing agency within the United States Department of Energy. BPA was established by the Bonneville Project Act of 1937, 16 U.S.C. 832 *et seq.*, to market wholesale power from Bonneville Dam and to construct power lines for the transmission of this power to load centers in the Northwest.

BPA sells wholesale electric power and energy to 126 utilities, 13 direct service industrial customers (DSIs) and several government agencies.

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) directs BPA to serve the net power requirements of any electric utility requesting service, and to serve existing DSIs in the Pacific Northwest. 16 U.S.C. 839 (c) and (d). Although BPA cannot own or construct electric generating facilities, the Northwest Power Act directs BPA to acquire rights to the output or capability of electric power resources to serve increased customer requirements. See 16 U.S.C. 839b(1). The Northwest Power Act requires BPA to grant credits to BPA's customers on their power bills for electric power resources that reduce the Administrator's obligation to acquire resources to meet BPA's electric power requirements. 16 U.S.C. 839d(h). Billing credits may be adjustments to customers' power bills or equivalent cash payments. Resources eligible for billing credits include conservation and generation. Specific requirements for resources and the amount BPA can pay for these resources are outlined in the Northwest Power Act and BPA's Billing Credits Policy.

BPA's Billing Credits Policy interprets the billing credits provisions in the Northwest Power Act, prescribes criteria for customer and resource eligibility, and establishes procedures for granting billing credits.

BPA's 1990 Resource Program focused on choosing near-term resource actions for Fiscal Years 1992 and 1993. After receiving comments from customers on the draft 1990 Resource Program that

suggested BPA use billing credits, BPA then developed a solicitation requesting proposals for billing credits resources. Billing credits provide a way to shift some of the risk for resource development to utilities and others, which was an objective of the chosen strategy in the 1990 Resource Program. In July 1990, BPA released the solicitation. It proposed to test the billing credit approach for acquiring energy resources by granting 50 average megawatts of billing credits to eligible resources. BPA's objective in the test was to ensure that the billing credit mechanism is workable for BPA customers.

II. Conservation Proposals

The proposals submitted in response to the Billing Credit Solicitation were divided into two groups, conservation and generation resources. Because CSEI projects reduce electric power consumption or losses by increasing efficiency of electric use, production, transmission, or distribution, they were considered a subset of conservation measures, but covered in separate contracts.

III. Description of the Conservation Proposals

Thirty-seven conservation proposals representing twenty-six public bodies or cooperative utilities were submitted pursuant to the July 1990 Billing Credit Solicitation. Thirteen proposals were withdrawn, three utilities withdrew from participation in group-sponsored proposals, and some proposals were rejected. Conservation projects include measures in the residential, commercial, industrial, and agricultural sectors to reduce electric power consumption or increase production. Conservation projects include residential weatherization, lighting retrofit, institutional and industrial energy conservation measure, municipal water system improvements, heat pump installation, and removal of irrigation pumps. These measures reduce electric power consumption or increase production.

BPA signed contracts with the following utilities for their respective conservation projects:

1. Springfield Utility Board—Municipal Water System Efficiency Project
2. City of Idaho Falls, Idaho—Street Lighting Project
3. City of Soda Springs Idaho—Street Lighting Project
4. Lower Valley Power and Light, Inc.—Commercial Lighting Project

The projects listed above meet the qualifications for billing credits. Conservation proposals received encompassed the residential, industrial, commercial, and agricultural sectors. The Customer must comply with current commercial and residential environmental requirements established for BPA programs. The Customer must comply with applicable commercial/industrial environmental requirements.

Several of the energy conservation measures (ECMs) proposed were covered under the Expanded Residential Weatherization Program Environmental Impact Statement dated August 1984 or the Approaches for Acquiring Energy Savings in Commercial Sector Buildings Environmental Assessment dated September 25, 1991. Other proposed ECMs were categorically excluded from the procedural provisions of NEPA (52 FR 47.669 (1987)) under categorical exclusion determinations dated April 9, 1991, July 3, 1991, and November 1, 1991. Therefore, BPA signed contracts with those customers.

IV. Description of the CSEI Proposals

Twenty-four CSEI proposals representing thirty public bodies or cooperative utilities were submitted pursuant to the July 1990 Billing Credit Solicitation. CSEI projects include voltage modifications, reconductoring, transformer replacements, and other system improvements undertaken to reduce electric power consumption or losses as a result of an increase in the efficiency of electric use, production, transmission or distribution.

BPA signed a contract with this public body for its CSEI project:

1. The City of Springfield, Oregon—a reconductor distribution circuits project.

This project meets the qualifications for billing credits. These actions are categorically excluded from the procedural requirements of the National Environmental Policy Act (52 FR 47669) under categorical exclusion determinations dated April 18, 1991, July 3, 1991, and November 1, 1991. Therefore, BPA signed a contract with that same customer.

V. Materials Available

Copies of the Billing Credits Policy, the Draft Administrative Record, its appendices, Addendum One, Amendment A to Addendum One, and Addendum Two are available from BPA's Public Involvement office. Refer

to the "For Further Information Contact" section of this notice.

Issued in Portland, Oregon, on May 14, 1992.

Jack Robertson,
Deputy Administrator.
[FR Doc. 92-12320 Filed 5-26-92; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. JD92-06491T Colorado-45]

Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formation

May 19, 1992.

Take notice that on May 14, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Niobrara Formation underlying certain lands in Yuma County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application is described as follows:

Township 2 South, Range 43 West, 6th p.m.
Sections 3 through 5: All
Sections 7 through 10: All
Sections 15 through 22 All
Sections 27 through 34: All

Township 2 South, Range 44 West, 6th p.m.
Sections 12, 13 and 24: All

Township 3 South, Range 43 West, 6th p.m.
Sections 5 and 6: All

The notice of determination also contains Colorado's findings that the referenced portion of the Niobrara Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,
Secretary.
[FR Doc. 92-12257 Filed 5-26-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP92-492-000, et al.]

**United Gas Pipe Line Company, et al.;
Natural Gas Certificate Filings**

May 18, 1992.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Co.

[Docket No. CP92-492-000]

Take notice that on May 13, 1992, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP92-492-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to renovate an existing meter station and install a new meter station at an existing rural service delivery point on behalf of The City of Moss Point, Mississippi (Moss Point) under the blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that it currently makes natural gas sales to Moss Point at its Escatawpa distribution system pursuant to service agreement dated October 1, 1991, and provides for sales to Moss Point for its Escatawpa system under United's G Rate Schedule up to an aggregated maximum daily quantity of 912 Mmbtu.

United further states that it has sufficient capacity to render the proposed service without detriment on disadvantage to its other existing customers.

Comment date: July 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corp.

[Docket No. CP92-490-000]

Take notice that on May 13, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed a request with the Commission in Docket No. CP92-490-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to partially abandon and replace metering facilities at the Inland Paper meter station in Spokane County, Washington, where natural gas volumes are delivered to Inland Empire Paper Company (Inland), pursuant to Northwest's blanket certificate issued in Docket No. CP82-433-000, all as more fully set forth in the application which is open to the public for inspection.

Northwest proposes to abandon and replace the currently installed two-inch rotary meter at the Inland Paper meter station with a three-inch turbine meter because of the severe vibration problem caused by continuously operating the facilities at or near maximum capacity. Northwest states that the vibrations could cause the meter to fail and damage the recorder and other associated equipment. Northwest estimates that it would cost approximately \$17,790 to remove and replace the existing meter at the Inland Paper meter station. Northwest states that the three-inch turbine meter would increase the maximum design capacity from 1,500 MMBtu to 5,817 MMBtu of natural gas per day at 500 psig at the Inland Paper meter station. Northwest also states that the increased design capacity is simply a side effect of installing a meter capable of safely handling the existing gas flows, which are expected to continue at the current levels.

Comment date: July 2, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Co.

[Docket No. CP92-493-000]

Take notice that on May 14, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-493-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service to Florida Gas Transmission Company (Florida Gas) which was authorized in Docket No. CP82-345-000 (22 FERC ¶ 62,209), all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon a transportation service provided to Florida Gas under Tennessee's Rate Schedule T-131 (contract dated April 7, 1981) in accordance with a request by Florida Gas. It is stated that under a letter agreement dated April 30, 1992, the parties have agreed to terminate the contract, effective upon issuance of abandonment approval by the Federal Energy Regulatory Commission. Tennessee further states that Florida Gas no longer needs the service. Tennessee advises that no facilities are to be abandoned.

Comment date: June 8, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. CNG Transmission Corp.

[Docket No. CP92-491-000]

Take notice that on May 13, 1992, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP92-491-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for authorization to restructure sales services for certain of its sale customers, including the assignment of certain upstream supply and transportation entitlements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG states that it seeks authorization to abandon part of the 30,000 and 25,000 dt equivalent of natural gas per day of Rate Schedule CD sales service that CNG currently provides to Virginia Natural Gas, Inc. (VNG) and City of Richmond (Richmond), respectively, in conjunction with customer conversions of equivalent volumes to firm transportation service, assignments by CNG of upstream capacity entitlements, and CNG's provision of new firm storage service. CNG states that these changes are set forth in precedent agreements dated February 7, 1992, and February 14, 1992, between CNG and VNG and Richmond, respectively. CNG also proposes to further reduce Rate Schedule DC sales service to Richmond by 5,000 dt equivalent of natural gas per day as requested by Richmond in the precedent agreement.

CNG also requests a certificate of public convenience and necessity authorizing it to provide GSS storage services to VNG and Richmond, as more fully set forth in application and the precedent agreements. CNG proposes to provide VNG and Richmond aggregate maximum GSS storage quantities of 502,500 and 337,500 dt equivalent of natural gas, respectively, and aggregate maximum daily GSS withdrawal quantities of 6,700 and 4,500 dt equivalent of natural gas, respectively. CNG indicates that under the agreements VNG and Richmond are required to adhere to an injection schedule designed to assure that storage fields would be completely full on October 31 of each year and that, if they fail to adhere to that schedule, they would be required to purchase sales gas from CNG to bring their injections up to scheduled levels. In addition, CNG proposes to provide standby service to VNG and Richmond as detailed in the precedent agreements and differentiated between summer and winter periods.

CNG also states that it requests amendment of any authorization that

may be necessary to allow CNG to assign part of its Tennessee Gas Pipeline Company (Tennessee) firm sales or transportation entitlement to VNG or Richmond. It is indicated that CNG also seeks amendment of any authorizations as required to enable Tennessee to abandon such services to CNG and service these customers directly.

CNG indicates that any transportation service required to implement these service modifications would be performed under CNG's Order No. 436 blanket certificate or pursuant to section 311 of the Natural Gas Policy Act of 1978.

CNG indicates that the proposed changes in service are being proposed in connection with the stipulation and agreement filed in Docket Nos. RP88-211-000, *et al.*, as approved by Commission order issued on May 7, 1991.

CNG states that the restructuring proposed in this application is not intended to replace the restructuring mandated by Order No. 636 or to implement Order No. 636 on a piecemeal basis. It is indicated that this proposal is intended to commence well in advance of implementation of Order No. 636. It is also indicated that commencement of this proposal would give CNG's customers valuable experience on CNG's system, and would lead to smooth implementation of services required under Order No. 636.

Comment date: June 8, 1992, in accordance with Standard Paragraph F at the end of the notice.

5. Transwestern Pipeline Co.

[Docket No. CP92-477-000]

Take notice that on May 1, 1992, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed an application pursuant to section 7(b) of the Natural Gas Act and part 157 of the Commission's Regulations for an order authorizing the abandonment by sale to Wallace Oil & Gas, Inc. of Transwestern's Cree Flowers Gathering System which consists of certain pipeline, measurement and appurtenant facilities located in Roberts County, Texas. Transwestern also requests Commission authorization to abandon a compressor located on the Cree Flowers Gathering System. Finally, Transwestern requests authorization to abandon a certificated exchange service with Phillips 66 Natural Gas Company (Phillips 66). Transwestern requests that all abandonment authorizations be granted concurrently with the abandonment by Phillips 66 of the

exchange service, as requested by Phillips 66 in Docket No. CI89-343-000. Transwestern's application is on file with the Commission and open to public inspection.

Transwestern states that the exchange service is performed pursuant to an Exchange Agreement dated September 18, 1972, as amended November 3, 1975, (filed in Transwestern's FERC Gas Tariff Original Volume No. 2, under Rate Schedule X-10).

Comment date: June 8, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18

CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12260 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-6-48-002]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

May 19, 1992.

Take notice that ANR Pipeline Company ("ANR"), on May 15, 1992 tendered for filing the following tariff sheet which ANR proposes to become effective May 1, 1992:

Original Volume No. 1

Fifth Revised Sheet No. 85

ANR states that this tariff sheet is being submitted to comply with the Commission's order issued April 30, 1992 in Docket Nos. TM92-6-48-000 and TM92-6-48-001. As more fully described in its filing, the tariff rate less than the amount of the applicable GRI adjustment it will remit to GRI that portion of any GRI surcharge actually collected above its maximum base rates."

ANR states that all of its Volume Nos. 1, 1-A, 2 and 3 customers and interested State Commissions have been apprised of this filing via U.S. Mail.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12252 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA92-4-000]

Axem Energy Co.; Petition for Adjustment

May 19, 1992.

Take notice that on April 2, 1992, pursuant to Rules 1101-1117 of the Commission's Rules of Practice and Procedure, 18 CFR 271.1106, and section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c), Axem Energy Co., (Axem) tendered for filing a petition for adjustment from the Commission's 150-day deadline in 18 CFR 271.805. Axem seeks approval to retain the section 108 price it obtained for gas from an authorized stripper well to which a recognized enhanced recovery technique and thereafter been added; if Axem is required to refund the amount exceeding the section 104 price that would otherwise apply, then Axem will suffer special hardship, including a net out-of-pocket loss with respect to this well.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12248 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF91-22-001]

EEA II, L.P.; Amendment to Filing

May 19, 1992.

On May 6, 1992, EEA II, L.P. tendered for filing an amendment to its filing in

this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by June 5, 1992, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12255 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF91-23-001]

EEA, I, L.P.; Amendment to Filing

May 19, 1992.

On May 6, 1992, EEA I, L.P. tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by June 5, 1992, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12254 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-146-001]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

May 19, 1992.

Take notice that on May 14, 1992, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective May 1, 1992:

Substitute Twelfth Revised Sheet No. 8
Substitute Original Sheet No. 10A

Natural states the purpose of the filing is to comply with the Commission's order issued April 30, 1992 at Docket No. RP92-146-000. The April 30th order conditionally accepted effective May 1, 1992, a revision to Natural's Rate Schedule DMQ-1 to allow customers to purchase up to 110% of their monthly entitlements without penalty. The condition required Natural to file revised tariff sheets to provide that both its existing and proposed overrun service volumes are to be scheduled after service has been scheduled to all existing firm and interruptible service customers.

Natural has requested waiver of the Commission's orders and Regulations to the extent necessary to permit approval of these changes to become effective May 1, 1992.

Natural states that copies of its filing was mailed to Natural's jurisdictional sales customers, intervenors, and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12251 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-172-000]

**Northern Border Pipeline Co.;
Proposed Changes in FERC Gas Tariff**

May 19, 1992.

Take notice that on May 14, 1992, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to be effective July 1, 1992:

Thirteenth Revised Sheet No. 157
Twelfth Revised Sheet No. 158
Third Revised Sheet No. 159
Original Sheet No. 159A
Fourth Revised Sheet No. 161
Sixth Revised Sheet No. 163
Third Revised Sheet No. 163A
First Revised Sheet No. 163B

Northern Border states that the purpose of the filing is (1) to revise the Maximum Rate and Minimum Revenue Credit under Rate Schedule IT-1 as called for in Northern Border's tariff on January 1 and July 1 of each year; and (2) to revise Northern Border's credit program to give our shipper's greater opportunity to meet our credit requirements, more option if credit can not be met and elimination of some of the operational impediments when credit is an issue.

Northern Border states that copies of the filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room. Lois D. Cashell,
Secretary.

[FR Doc. 92-12250 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-173-000]

**Northwest Alaskan Pipeline Co.;
Proposed Changes in FERC Gas Tariff**

May 20, 1992.

Take notice that on May 15, 1992, Northwest Alaskan Pipeline Company (Northwest Alaskan) tendered for filing

as part of its FERC Gas Tariff Original Volume No. 2, Thirtieth Revised Sheet No. 5, with a proposed effective date of July 1, 1992.

Northwest Alaskan states Thirtieth Revised Sheet No. 5 reflects an increase in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. (Pan-Alberta) and resold to Northwest Alaskan's four U.S. purchasers: Northern Natural Gas Company (Northern), Panhandle Eastern Pipe Line Company (Panhandle), Pan-Alberta Gas (U.S.) Inc. (Pan-Alberta) (U.S.), and Pacific Interstate Transmission Company (PIT) under Rate Schedules X-1, X-2, X-3 and X-4, respectively.

Northwest Alaskan states that it is submitting Thirtieth Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Northern, Panhandle, Pan-Alberta (U.S.), and PIT, and pursuant to Rate Schedules X-1, X-2, X-3, and X-4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (July 1, 1992 through December 31, 1992) the demand charge and demand charge adjustments which Northwest Alaskan will charge during the period.

Northwest Alaskan states that copies of the filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 28, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room. Lois D. Cashell,
Secretary.

[FR Doc. 92-12259 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-22-000]

**Panhandle Eastern Pipe Line Co.; Pre-
Compliance Filing Conference**

May 19, 1992.

Take notice that a pre-compliance filing conference has been scheduled in

the above-captioned proceeding for 1 p.m. on May 28, 1992 at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The purpose of this conference is to describe and discuss Panhandle Eastern Pipe Line Company's compliance filing in response to Order No. 636.

All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call Brian D. O'Neill at (202) 986-8012.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12247 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-141-006]

**Sea Robin Pipeline Co.; Report of
Refunds**

May 19, 1992.

Take notice that Sea Robin Pipeline Company (Sea Robin) on April 30, 1992, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in accordance with the Commission's order issued March 31, 1992, in Docket Nos. RP89-141-006, *et al.* The March 31, 1992 order accepted Sea Robin's tariff sheet and supporting documentation as in being in full compliance with previous orders issued April 28, 1989, October 7, 1991 and January 14, 1992.

Sea Robin states that the refund, including interest and interest on transportation credits, totals \$603,413. Sea Robin also states that the refund was distributed to Sea Robin's only jurisdictional customers, Southern Natural Gas Company (\$302,461) and United Gas Pipe Line Company (\$300,952) on April 30, 1992.

Sea Robin states that copies of the filing and letter are being mailed to all of Sea Robin's jurisdictional customers, shippers and the interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-12256 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-7-076]

Transcontinental Gas Pipe Line Corp.; Refund Report

May 19, 1992.

Take notice that Transcontinental Gas Pipeline Company (Transco) on September 30, 1991, tendered for filing with the Federal Energy Regulatory Commission (Commission) its refund report summarizing refunds made to Leidy Storage Service customers on September 23, 1991.

Transco states that the refunds were made in accordance with section 4 of Transco's Rate Schedule LSS. Transco states that these refunds were received from CNG Transmission Corporation (CNG) pursuant to CNG's Stipulation and Agreement approved by the Commission on May 7, 1991, in Docket No. RP88-211 *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure—18 CFR 385.211. All such protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-12246 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-122-000, *et al.*]

Trunkline LNG Co. *et al.*; Conference

In the matter of Trunkline LNG Co., Docket Nos. RP92-122-000, RP81-85-000; Trunkline Gas Co., Docket Nos. RP92-123-000, RP92-124-000, RP92-126-000, RP87-15-000, RP87-15-029, RP87-15-030, RP89-160-000; Panhandle Eastern Pipe Line, Docket Nos. RP92-118-000, RP92-125-000, RP92-127-000, RP92-128-000.

May 20, 1992.

A conference in the above-captioned proceedings will convene on Wednesday, May 27, 1992 at 2 p.m. The purpose of the conference is to allow the

parties to further discuss the matters which the Commission required to be addressed at the conferences established in orders issued in the captioned dockets on March 27, and March 31, 1992.¹ The conference will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,
Secretary.

[FR Doc. 92-12258 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-67-055]

Texas Eastern Transmission; Proposed Changes in FERC Gas Tariff

May 19, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), in compliance with the Stipulation and Agreement (Settlement) in Docket Nos. RP88-67, *et al.* (Phase II/PCBs) filed by Texas Eastern on December 17, 1991 and approved without modification by the Commission on March 18, 1992, tendered for filing on April 24, 1992, as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Fifth Revised Sheet No. 522

Texas Eastern states that the tariff sheet listed above is being filed to include as part of Texas Eastern's FERC Gas Tariff the section 35 "Article VI Adjustment" as required by the Settlement. Texas Eastern also states that a proforma copy of section 35 was set forth in exhibit F of the Settlement.

The proposed effective date of the tariff sheet listed above is May 24, 1992.

Texas Eastern states that copies of the filing were served upon Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

¹ 58 FERC ¶ 61,334, 58 FERC ¶ 61,336, 58 FERC ¶ 61,340, 58 FERC ¶ 61,341, and 58 FERC ¶ 61,367.

Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-12253 Filed 5-26-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. F-041]

Energy Conservation Program for Consumer Products; Decision and Order Granting a Waiver From the Furnace Test Procedure to Consolidated Industries Corp.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-041) granting a Waiver to Consolidated Industries Corp. (Consolidated Industries), from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Consolidated Industries its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its MAA series of gas furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasser, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Consolidated Industries has been granted a Waiver for its MAA series of gas furnaces, permitting the company to use an alternate test method in determining AFUE.

J. Michael Davis,
Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: The Consolidated Industries Corp. (Case No. F-041)

Background

The Energy Conservation Program for Consumer Products (other than

automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on

the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Consolidated Industries filed a "Petition for Waiver," dated November 4, 1991, in accordance with § 430.27 of 10 CFR part 430. DOE published in the Federal Register on January 9, 1992, Consolidated Industries' petition and solicited comments, data and information respecting the petition. 57 FR 901. Consolidated Industries also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on December 30, 1991. 57 FR 901, January 9, 1992.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." DOE consulted with The Federal Trade Commission (FTC) concerning the Consolidated Industries Petition. The FTC did not have any objections to the issuance of the waiver to Consolidated Industries.

Assertions and Determinations

Consolidated Industries' Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Consolidated Industries requests the allowance to test using a 30-second blower time delay when testing its MAA series of gas furnaces. Consolidated Industries states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 0.8 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contain exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Consolidated Industries indicates that it is unable to take advantage of any of these exceptions for its MAA series of gas furnaces.

Since the blower controls incorporated on the Consolidated Industries furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Consolidated Industries MAA series of gas furnaces, today's Decision and Order exempts Consolidated Industries from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The Petition for Waiver" filed by Consolidated Industries Corp. (Case No.

F-041), is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Consolidated Industries Corp., shall be permitted to test its MAA series of gas furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE 103-82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ± 0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, The Consolidated Industries Corp. shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test

procedures appropriate to the MAA series of gas furnaces manufactured by Consolidated Industries Corp.

(4) The Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective (Insert Date of Issuance), this Waiver supersedes the Interim Waiver granted The Consolidated Industries Corp. on December 30, 1991. 57 FR 901, January 9, 1992 (Case No. F-041).

J. Michael Davis,

Assistant Secretary.

[FR Doc. 92-12321 Filed 5-26-92; 8:45 am]

BILLING CODE 6450-01-M

[Case No. F-040]

Energy Conservation Program for Consumer Products; Decision and Order Granting a Waiver From the Furnace Test Procedure to The Trane Co.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-040) granting a Waiver to The Trane Company (Trane), from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Trane its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its TUD-C, TUD-R, TDD-C, and TDD-R central furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasser, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Trane has been granted a Waiver for its TUD-C, TUD-R, TDD-C, and TDD-R central furnaces,

permitting the company to use an alternate test method in determining AFUE.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: The Trane Company (Case No. F-040)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These tests procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim

Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Trane filed a "Petition for Waiver," dated October 16, 1991, in accordance with § 430.27 of 10 CFR part 430. DOE published in the *Federal Register* on January 9, 1992, Trane's petition and solicited comments, data and information respecting the petition. 57 FR 904. Trane also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on December 30, 1991. 57 FR 904, January 9, 1992.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." DOE consulted with The Federal Trade Commission (FTC) concerning the Trane Petition. The FTC did not have any objections to the issuance of the waiver to Trane.

Assertions and Determinations

Trane's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Trane requests the allowance to test using a 45-second blower time delay when testing its TUD-C, TUD-R, TDD-C, and TDD-R central furnaces. Trane states that since the 45-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 1.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contain exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Trane indicates that it is unable to take advantage of any of these exceptions for its TUD-C, TUD-R, TDD-C, and TDD-R central furnaces.

Since the blower controls incorporated on the Trane furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 45-second blower time delay when testing the Trane TUD-

C, TUD-R, TDD-C, and TDD-R central furnaces. Accordingly, with regard to testing the TUD-C, TUD-R, TDD-C, and TDD-R central furnaces, today's Decision and Order exempts Trane from the existing provisions regarding blower controls and allows testing with the 45-second delay.

It is, therefore, ordered that:

(1) The "Petitioner for Waiver" filed by The Trane Company (Case No. F-040), is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, The Trane Company, shall be permitted to test its TUD-C, TUD-R, TDD-C, and TDD-R central furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE 103-82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ± 0.01 inch of water column

of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, The Trane Company shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the TUD-C, TUD-R, TDD-C, and TDD-R central furnaces manufactured by The Trane Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective (Insert Date of Issuance), this Waiver supersedes the Interim Waiver granted The Trane Company on December 30, 1991. 57 FR 904, January 9, 1992 (Case No. F-040).

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-12322 Filed 5-26-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4136-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 28, 1992. For further information, or to obtain a copy of this ICR, contact: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Review and Prevention of Significant Deterioration

Permitting Program—Information Requirements (EPA ICR #1230.06 OMB #2060-0003). This is a request for an extension of the expiration date of a currently approved information collection without any change in the substance or in the method of collection.

Abstract: New and modified stationary sources must supply information on estimated emissions, proposed control technology, and air quality impact when applying for a preconstruction permit. EPA or the State or local air pollution control agency use the information in the permit application to ensure that all regulatory requirements are being met and that the new emissions, in conjunction with existing source emissions in the same area, will not interfere with the attainment or maintenance of the national ambient air quality standards.

Burden Statement: The public reporting burden for this collection of information is estimated to average 33 hours per response for reporting. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of new or modified sources of air pollution.

Estimated No. of Respondents: 20,565.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 672,080.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Chris Wolz, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: April 15, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-12297 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4136-7]

Gulf of Mexico Program Citizens Advisory Committees Meeting

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting of the Citizens Advisory Committee of the Gulf of Mexico program.

SUMMARY: The Gulf of Mexico Program Citizens Advisory Committee will hold a meeting on June 5-6, 1992 at Stennis Space Center, MS.

FOR FURTHER INFORMATION CONTACT: Mr. Williams Whitson, Gulf of Mexico Program Office, Stennis Space Center, MS 29529 at (601) 688-3726.

SUPPLEMENTARY INFORMATION: A meeting of the Citizens Advisory Committee of the Gulf of Mexico Program will be held on June 5-6, 1992 in Building 1100, room 107, Stennis Space Center MS 39529. Agenda items will include status reports to the Committee on the current Action Plans, the Gulf Program's FY92, 93 and 94 budget, Year of the Gulf activities 1992 Symposium status report, legislation update, Success in '92 Action Project(s), a review of subcommittee assignments, and the

election of officers. The meeting is open to the public.

Martha Prothro,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 92-12442 Filed 5-26-92; 8:45 am]

BILLING CODE 6580-50-M

[OPP-66160; FRL 4051-5]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by August 25, 1992, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of

Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 210, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305-5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the *Federal Register* before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 201 pesticide products registered under Section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100 LA-83-0011	Aatrex 4L Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine
000100 LA-83-0012	Aatrex Nine-O	2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine
000100 LA-83-0013	Aatrex 80W Herbicide	2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine
000100 TX-86-0008	Ridomil 5G-Fungicide	N-(2,6-Dimethylphenyl)-N-(methoxyacetyl)alanine, methyl ester
000168-20004	Lets Bleach	Sodium hypochlorite
000239-02538	Gulf Lite Insect Repellent Formula 6	N,N-Diethyl-meta-toluamide and other isomers
000239-02554	Gulf Spray Insect Repellent Formula 7	N,N-Diethyl-meta-toluamide and other isomers
000241 AZ-91-0012	Prowl Herbicide	N-(1-Ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine
000264 OR-76-0032	Fruitone-N	Sodium 1-naphthaleneacetate
000270-00106	Farnam-Super-Sheen Wipe Plus Protectant and Brightner	d-trans-Chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-butoxypolypropylene glycol Dipropyl isocinchomeronate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000270-00174	Nature's Own Herbal Flea Repellent Collar	Oil of citronella Oil of eucalyptus Cedarwood oil Oil of Pennyroyal
000270-00184	Nature's Own Herbal Flea Repellent Powder II	Oil of citronella Essential oils Oil of eucalyptus Cedarwood oil Oil of Pennyroyal
000270-00185	Nature's Own Herbal Flea Repellent Powder	Oil of citronella Essential oils Oil of eucalyptus Cedarwood oil Oil of Pennyroyal
000279-01872	Thiram 65 Wettable Powder Fungicide	Tetramethyl thiuramdisulfide
000279 CT-91-0001	Furadan 15 G Insecticide-Nematicide	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000279 PA-91-0001	Furadan 15 G Insecticide-Nematicide	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
000303-00106	Focus Germicidal Detergent and Deodorant	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) Alkyl* dimethyl benzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18) Sodium metasilicate Sodium carbonate
000352-00375	Du-Pont Lexone Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352-00382	Dupont Lexone 4L Herbicide	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)- 1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352-00407	Du Pont Metribuzin 75 Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 AR-83-0002	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 CA-76-0039	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 CA-79-0223	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 CA-89-0003	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 DE-82-0011	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 GA-81-0022	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 ID-80-0014	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 ID-80-0059	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 ID-81-0016	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 LA-81-0031	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 MI-82-0017	Dupont Velpar L Weed Killer	3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1H,3H)-dione
000352 MN-82-0010	Dupont Velpar L Weed Killer	3-Cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1H,3H)-dione
000352 NC-83-0005	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 NJ-84-0019	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 NJ-85-0008	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 NJ-86-0013	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 OK-90-0004	Dupont Finesse Herbicide	2-Chloro-N-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl) Methyl 2-[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfo
000352 OR-77-0041	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 OR-78-0055	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 OR-80-0027	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 OR-86-0010	Du Pont Telar Herbicide	2-Chloro-N-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl) Methyl 2-[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfo
000352 OR-89-0013	Dupont Finesse Herbicide	2-Chloro-N-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl) Methyl 2-[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfo
000352 PR-78-0005	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 WA-77-0034	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 WA-77-0041	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 WA-80-0013	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 WA-81-0027	Dupont Lexone 4L Metribuzin Weed Killer	1,2,4-Triazin-5(4H)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 WA-89-0025	Dupont Finesse Herbicide	2-Chloro-N-(((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl) Methyl 2-[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfo
000400-00418	Dwell 4L Nitrification Inhibitor	5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
000400-00420	Dwell 4 Nitrification Inhibitor	5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
000400-00421	Dwell 4E Nitrification Inhibitor	5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole
000400 OR-87-0005	Omite 30W an Agricultural Miticide	2-(p-tert-Butylphenoxy)cyclohexyl 2-propynyl sulfite
000464 ND-78-0002	Tordon 22K Weed Killer	4-Amino-3,5,6-trichloropicolinic acid, potassium salt
000464 ND-80-0009	Tordon Beads Herbicide	4-Amino-3,5,6-trichloropicolinic acid, potassium salt Borax
000476 OR-80-0065	Stauffer Magnetic 6 Flowable Sulfur	Sulfur
000524 FL-90-0008	Roundup	Isopropylamine glyphosate (N-(phosphonomethyl)glycine)
000538-00027	Pro-Turf Brand Broad Spectrum Fungicide	Phenylmercuric acetate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
000538-00036	Proturf 24-5-3 Fertilizer Plus Fungicide	Tetramethyl thiuramdisulfide
000606-00023	Corn King Dry Insecticide	Phenylmercuric acetate
000655-00246	Prentox Prolin Concentrate	Tetramethyl thiuramdisulfide
000655-00443	Prentox Flax Tracking Powder	<i>O,O</i> -Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000802 WA-76-0030	Cube Powder	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
001021-01551	Evercide Intermediate 2453	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
001304-00019	McNess Ready-To-Use Rat and Mouse Killer	Rotenone
001386-00246	Spray Oil	Cube Resins other than rotenone
001769-00025	National Chemsearch Tri-Gly Air Sanitizer & Deodorant	<i>O,O</i> -Diethyl <i>O</i> -(3,5,6-trichloro-2-pyridyl) phosphorothioate
001769-00047	Mint - Aire	2,2-Dichlorovinyl dimethyl phosphate
001769-00063	Flair Aerosol Air Sanitizer and Deodorant	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
001769-00106	National Tri-Gly Air Sanitizer	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
001769-00152	Mint Aire Aerosol	Aliphatic petroleum hydrocarbons
001769-00161	National Chemsearch Scoot Foamy Bowl Cleaner	Isopropanol
001769-00187	National Chemsearch Flair Air Sanitizer Deodorant	1,2-Propanediol
001769-00201	National Chemsearch Promine - a Disinfectant Deodorant	Triethylene glycol
001769-00228	Rockford No 1430 Acid Sanit	Isopropanol
001769-00244	National Chemsearch Chem-I-Dyne	1,2-Propanediol
001769-00257	National Chemsearch Lemalene T.M.	Methyldodecylbenzyl trimethyl ammonium chloride 80% and methyldodecylxylene
001812 LA-90-0011	Meturon 4I	Triethylene glycol
001812 LA-90-0012	Meturon DF	1,2-Propanediol
001812 MS-90-0027	Meturon 4L	4-tert-Amylphenol
001812 MS-90-0028	Meturon DF	<i>o</i> -Phenylphenol
002019-00041	Johnston's No-Roach Quality Spray	Isopropanol
002217-00257	Grain Gard Emulsifiable Premium 57% Malathion	Phosphoric acid
002217-00296	Fruit Tree Spray	Dodecylbenzenesulfonic acid
		Nonylphenoxyethoxyethanol - iodine complex
		Phosphoric acid
		1,2-Propanediol
		Methyldodecylbenzyl trimethyl ammonium chloride 80% and methyldodecylxylene
		Triethylene glycol
		5-Bromo-3-sec-butyl-6-methyluracil
		Trichloroacetic acid
		1,1-Dimethyl-3-(alpha,alpha-trifluoro- <i>m</i> -tolyl)urea
		1,1-Dimethyl-3-(alpha,alpha-trifluoro- <i>m</i> -tolyl)urea
		1,1-Dimethyl-3-(alpha,alpha-trifluoro- <i>m</i> -tolyl)urea
		1,1-Dimethyl-3-(alpha,alpha-trifluoro- <i>m</i> -tolyl)urea
		2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl <i>o</i> -trans-2,2-dimethyl- <i>N</i> -Octyl bicycloheptene dicarboximide
		<i>O,O</i> -Diethyl <i>O</i> -(3,5,6-trichloro-2-pyridyl) phosphorothioate
		<i>O,O</i> -Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		Methoxychlor (2,2-bis(<i>p</i> -methoxyphenyl)-1,1,1-trichloroethane)
		<i>O,O</i> -Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		cis- <i>N</i> -Trichloromethylthio-4-cyclohexene-1,2-dicarboximide

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
002217-00340	Vapona Fogging Spray	Kerosene
002217-00341	Vapona 50% C S	2,2-Dichlorovinyl dimethyl phosphate
002217-00347	Dairy and Livestock Dust	2,2-Dichlorovinyl dimethyl phosphate
002217-00474	Dairy Dust Plus	Methoxychlor (2,2-bis(p-methoxyphenyl)-1,1,1-trichloroethane)
002217-00699	Gordon's New Back-Rubber Oiler	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
002217-00700	Gordon's New Hi-Tox Livestock Spray	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
002393-00149	Hopkins Prolin Anticoagulant Concentrate	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
002393-00363	Hopkins Prolin Pelleted Rat Bait	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
002724-00309	Zoecon RF-216 RTU Carpet Pump Spray	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
		N-Octyl bicycloheptene dicarboximide
		O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Isopropyl (2E,4E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate
002724-00310	Zoecon RF-217 RTU Carpet Pump Spray	O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
		Isopropyl (2E,4E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate
002724-00333	Zoecon RF-276 RTU Carpet Pump Spray	N-Octyl bicycloheptene dicarboximide
		O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Isopropyl (2E,4E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate
002724-00334	Zoecon RF-277 RTU Carpet Pump Spray	O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
		Isopropyl (2E,4E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate
002749 OR-82-0058	Aceto Phorate 15-G	Phorate (O,O-diethyl S-((ethylthio)methyl) phosphorodithioate)
003125 FL-85-0016	Furadan 15 G Insecticide-Nematicide	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
003125 NJ-86-0005	Guthion 2S	O,O-Dimethyl S-((4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl) phosphorodithioate
003125 NJ-86-0006	Guthion 50% Wettable Powder Crop Insecticide	O,O-Dimethyl S-((4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl) phosphorodithioate
003125 NJ-86-0014	Furadan 4 Flowable	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
003125 NJ-87-0003	Furadan 15 G Insecticide-Nematicide	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
003240-00013	Motomco Tracking Powder Kills Rats and Mice	2-Isovaleryl-1,3-indandione, calcium salt
005197-00040	Viro Phene	Isopropanol
		4-tert-Amylphenol
		o-Phenylphenol
		1,2-Propanediol
005481-00056	ALCO Stump Killer	Ammonium sulfamate
005481-00186	ALCO Tomato Hold	Diethanolamine 4-chlorophenoxyacetate
005481-00292	Thiram Fruit Fungicide	Tetramethyl thiuramdisulfide
005836-00003	Windler Rat and Mouse Killer	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
006720 FL-87-0020	SMCP Dursban* Mole Cricket Bait	O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
007122-00119	Ban-Cide Dursban 1-E Insecticide	Aromatic petroleum derivative solvent
		O,O-Diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate
007276-00008	RMC Soluble Prolin Kills Rats and Mice	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
007455-00012	Supersweet Rodent Rid contains Prolin	N-(2-Quinoxaliny)sulfanilamide
		3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
007501-00028	Gustafson Botran-30C	2,6-Dichloro-4-nitroaniline
007501-00062	Gustafson Captan DCNA 60-20	2,6-Dichloro-4-nitroaniline
		cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
007501 NC-86-0008	Vitavax 75-Captan DCNA 60-20 Blend	2,6-Dichloro-4-nitroaniline
		cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
		5,6-Dihydro-2-methyl-1,4-oxathin-3-carboxanilide
007501 VA-86-0007	Vitavax 75-Captan DCNA 60-20 Blend	cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
008186-00001	Carboline Polyclad Tropical Anti-Fouling Red 1240-3	Copper (metallic)
		Cuprous oxide
008186-00004	Carboline Polyclad Tropical Anti-Fouling Red 1240-2	Copper (metallic)
		Cuprous oxide
008186-00015	Imperial C-Flex 121 Vinyl Copper Anti Fouling Black	Cuprous oxide
008580-00001	Endo Rat Improved Killer Kakes	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
008848-00002	Safeguard Brand Mouse & Rat Killer	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
009319-00011	AT-90	3-Amino-s-triazole
010163-00045	Phosphamidon 8 Spray	2-Chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate
010163 AZ-87-0011	Prokll Dicofol EC	1,1-Bis(chlorophenyl)-2,2,2-trichloroethanol Xylene 1,1-Bis(chlorophenyl)-2,2,2-trichloroethanol Xylene
010182-00116	Actellic 40D Insecticide	O-(2-(Diethylamino)-6-methyl-4-pyrimidinyl) O,O-dimethyl phosphorothioate
010182-00317	Captan Botran 10-5 Dust	2,6-Dichloro-4-nitroaniline cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
010182 OR-82-0028	Ortho Paraquat (cl)	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182 OR-82-0031	Ortho Paraquat (cl)	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010182 OR-82-0035	Ortho Paraquat (cl)	1,1'-Dimethyl-4,4'-bipyridinium dichloride
010356-00012	CCA-Type A Wood Preservative 50% Concentration	Arsenic pentoxide Chromic acid Cupric oxide
011556-00069	Sendran Liquid Tick and Flea Dip for Dogs and Cats	o-Isopropoxyphenyl methylcarbamate
011603-00011	Simazine 80% W.P.	2-Chloro-4,6-bis(ethylamino)-s-triazine
011603-00024	Simanex (simazine) Technical	2-Chloro-4,6-bis(ethylamino)-s-triazine
011656-00007	Malathion 8 Emulsive Insecticide	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
011656-00009	Western Farm Service Malathion 5 Emulsive	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
012455-00027	Warfarin-Q Concentrate	3-(alpha-Acetylbiphenyl)-4-hydroxycoumarin
033458-20002	Pool Guard Sodium Hypochlorite	Sodium hypochlorite
033458 FL-88-0026	Pool Guard Sodium Hypochlorite	Sodium hypochlorite
033458 FL-89-0021	Pool Guard Sodium Hypochlorite	Sodium hypochlorite
033955-00401	Acme Rose Dust	Methoxychlor (2,2-bis(p-methoxyphenyl)-1,1,1-trichloroethane) 2,4-Dinitro-6-octyl* phenyl crotonate, 2,6-dinitro-4-octyl* phenyl crotonate and O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
034704-00380	Niagara Phosphamidon 8 Spray	2-Chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate
034704-00398	Niagara Botran 6 Dust	2,6-Dichloro-4-nitroaniline
034704-00404	Botran 6 Sulfur 25 Dust.	2,6-Dichloro-4-nitroaniline Sulfur
034704-00468	Clean Crop Phosphamidon 8-Miscible	2-Chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate
036210-00006	Amco Poison P-Nuts Special	Zinc phosphide
042545-00033	Visko-Rhap Oil Soluble Amine A-30	Alkyl* amine 2,4-dichlorophenoxyacetate *(as in fatty acids of tall oil)
045639-00090	Vorlex Soil Fumigant	1,3-Dichloropropene Methyl isothiocyanate
045639-00091	Vorlex 201 Soil Fumigant	1,3-Dichloropropene Methyl isothiocyanate Chloropicrin
046813-00037	CCL Flea & Tick Pet Spray I	1-Naphthyl-N-methylcarbamate N-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
048706-00001	CCA Type C 50% Chromated Copper Arsenate	Arsenic pentoxide Chromic acid Cupric oxide
050383-00009	Lucky Strike Formula No. 96 Dormant	Aliphatic petroleum hydrocarbons
050383-00010	Lucky Sevin Spray	1-Naphthyl-N-methylcarbamate
050383-00011	Lucky Strike Crop Maker	Cuprous and cupric oxide, mixed Rotenone Cube Resins other than rotenone
050383-00014	Wilson Malathion 50% Insect Spray	O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate Xylene
050383-00016	Lucky Sevin 5% Dust or Spray	1-Naphthyl-N-methylcarbamate
050383-00017	Wilson Black Magic Rose and Flower Dust	1-Naphthyl-N-methylcarbamate Pyrethrins Sulfur cis-N-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
050383-00031	Lucky Strike Diazinon Dust	O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
050383-00033	Lucky Strike Diazinon 12 1/2% Emulsifiable Concentrate	Aromatic petroleum derivative solvent <i>O,O</i> -Diethyl <i>O</i> -(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
050383-00034	Lucky Strike Weed Buster	Aliphatic petroleum hydrocarbons 2,4-Bis(isopropylamino)-6-methoxy- <i>s</i> -triazine
050534 CO-88-0014	Bravo 500	Tetrachloroisophthalonitrile
050534 MD-84-0005	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 NE-89-0005	Bravo Plus (bravo C/M)	Basic copper chloride Manganese ethylenebis(dithiocarbamate) Tetrachloroisophthalonitrile
050534 NJ-84-0013	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 TX-88-0004	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
050534 VA-84-0006	Bravo 500 Agricultural Fungicide	Tetrachloroisophthalonitrile
051036-00002	Malathion Solution 90	<i>O,O</i> -Dimethyl phosphorodithioate of diethyl mercaptosuccinate
051036-00065	Thiram 65 WP	Tetramethyl thiuramdisulfide
055947-00098	Mavrik 2E Insecticide	<i>N</i> -(2-Chloro-4-trifluoromethylphenyl)-DL-valine (±)-cyano(3-phenoxyphenyl)methyl
056644-00059	Security Brand Rose & Flower Dust	<i>O,O</i> -Diethyl <i>O</i> -(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate Sulfur Tetrachloroisophthalonitrile
058185-00002	Thiramad	Tetramethyl thiuramdisulfide
059639-00050	Dibrom Sevin 4-10 Dust	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate 1-Naphthyl- <i>N</i> -methylcarbamate
059639 LA-91-0004	Ortho Bolero 8EC	<i>S</i> -((4-Chlorophenyl)methyl) <i>N,N</i> -diethylthiocarbamate
060182 FL-82-0091	Orthene Tree and Ornamental Spray	<i>O,S</i> -Dimethyl acetylphosphoramidothioate
060182 FL-84-0009	SA-50 Wettable or Dusting Sulfur	Sulfur
062499 LA-82-0005	Ortho Bolero 8EC	<i>S</i> -((4-Chlorophenyl)methyl) <i>N,N</i> -diethylthiocarbamate
063241 AZ-87-0017	Stirrup - M	3,7,11-Trimethyl-2,6,10-dodecatriene-1-ol 3,7,11-Trimethyl-1,6,10-dodecatrien-3-ol

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this ninety-day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Ciba-Gelgy Corp., Box 18300, Greensboro, NC 27419.
000168	Great Western Chemical Co., 808 S.W. 15th Ave., Portland, OR 97205.
000239	Chevron Chemical Co., Registration & Regulatory Affairs Dept., 940 Hensley Street, Richmond, CA 94804.
000241	American Cyanamid Co., Agri Research Div - U.S. Regulatory Affairs, Box 400, Princeton, NJ 08543.
000264	Rhone-Poulenc Ag. Co., Box 12014, Research Triangle Park, NC 27709.
000270	Farnam Companies Inc., 301 W. Osborn Rd., Phoenix, AZ 85067.
000279	FMC Corp., Agricultural Chemical Group, 1735 Market Street, Philadelphia, PA 19103.
000303	Huntington Laboratories, Inc., 968-970 E. Tipton St., Huntington, IN 46750.
000352	E.I. Du Pont Denemours & Co., Inc., Agricultural Products Department, Box 80038, Wilmington, DE 19880.
000400	Uniroyal Chemical Co. Inc., 74 Amity Rd, Bethany, CT 06524.
000464	The Dow Chemical Co., Reg. Compliance / Health & Environmental, 1803 Building, Midland, MI 48674.
000476	Stauffer Chemical Co./ICI Americas Inc., Agricultural Products, Concord Pike & New Murphy Rd, Wilmington, DE 19897.
000524	Monsanto Co., 700 14th Street, N.W. Suite 1100, Washington, DC 20005.
000538	O.M. Scott & Sons Co., 14310 Scottslawn Rd., Marysville, OH 43041.
000606	Prince Agri Products, Inc., One Prince Plaza, Quincy, IL 62301.
000655	Prentiss Inc., 21 Vernon St, Floral Park, NY 11001.
000802	Chas H. Lilly Co., 7737 N.E. Killingsworth, Portland, OR 97218.
001021	McLaughlin Gormley King Co., 8810 Tenth Ave. North, Minneapolis, MN 55427.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Compa- ny No.	Company Name and Address
001304	Furst McNess Co., 120 E Clark St, Freeport, IL 61032.
001386	Universal Cooperatives Inc., Box 460 7801 Metro Parkway, Minneapolis, MN 55440.
001769	NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
001812	Griffin Corp., Box 1847, Valdosta, GA 31603.
002019	Regwest Co, Agent For: Gaston Johnston Corp., Box 2220, Greeley, CO 80632.
002217	PBI/Gordon Corp., 1217 W. 12th Street Box 4090, Kansas City, MO 64101.
002393	Haco, Inc., Box 7190, Madison, WI 53707.
002724	Zoecon Corp., a Sandoz Co., 12200 Denton Drive, Dallas, TX 75234.
002749	Aceto Agriculture Chemicals Corp., One Hollow Lane, Lake Success, NY 11042.
003125	Miles Inc., Box 390, Shawnee Mission, KS 66201.
003240	Motomco Ltd., Box 8422, Madison, WI 53708.
005197	Systems General, Inc., Box 152170, Irving, TX 75015.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd, Los Angeles, CA 90023.
005836	Fowler Pest Control, 116 E 5th St, Fowler, IN 47944.
006720	Southern Mill Creek Products, 5414 North 56th Street, Tampa, FL 33610.
007122	The Archem Corp., 1514 Eleventh St, Portsmouth, OH 45662.
007276	RMC Prod Co., Box 848, Ft Dodge, IA 50501.
007455	Agricultural Products Division, International Multifoods, Multifoods Tower Box 2942, Minneapolis, MN 55402.
007501	Gustafson, Inc., Box 660065, Dallas, TX 75266.
008186	Carboline Co., 350 Hanley Industrial Ct., St. Louis, MO 63144.
008580	Hilliard Products Inc., 1453 Division Hwy, New Holland, PA 17557.
008848	Safeguard Chemical Corp., 806 E. 144 St., Bronx, NY 10454.
009319	Custom Chemicides, Box 11216, Fresno, CA 93772.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.
010356	Chemical Specialties, Inc., One Woodlawn Green, Charlotte, NC 28217.
011556	Mobay Corp., Animal Health Division, Box 390, Shawnee Mission, KS 66201.
011603	Agan Chem Mfg. Ltd c/o Makhteshim-Agan (America), 245 Fifth Ave Suite 1901, New York, NY 10016.
011656	Western Farm Service, Inc., Box 1168, Fresno, CA 93711.
012455	Bell Laboratories Inc., 3699 Kinsman Blvd, Madison, WI 53704.
033458	Allied Universal Corp., 8350 N.W. 93 Street, Miami, FL 33166.
033955	PBI Gordon Corp., Box 4090, Kansas City, MO 64101.
034704	Platte Chemical Co., 419 18th St. (80632) Box 667, Greeley, CO 80632.
036210	Midwest Garden Supply, Pleasant View Rd., Pleasant Valley, NY 12569.
042545	Agrolinz, Inc., 1669 Kirby Parkway, Suite 1000, Memphis, TN 38120.
045639	Nor-Am Chemical Co., 3509 Silverside Rd., Wilmington, DE 19803.
046813	Air Guard Control Inc., Agent For: CCL Industries Inc., 1209 W Bailey, Sioux Falls, SD 57104.
048706	Hickson Corp., 3941 Bonsal Rd, Conley, GA 30027.
050383	Alfred Miller, Agent For: Wilson Laboratories Inc., 150-152 Mason St, Greenwich, CT 06830.
050534	ISK Biotech Corp., 5966 Heisley Rd. Box 8000, Mentor, OH 44061.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.
055947	Sandoz Crop Protection Corp., 1300 E. Touhy Ave., Des Plaines, IL 60018.
056644	Security Products Co. of Delaware, Inc., 7801 Metro Parkway Box 59084, Minneapolis, MN 55420.
058185	Grace Sierra Crop Protection Co., 1001 Yosemite Drive, Milpitas, CA 95035.
059639	Valent U.S.A. Corp., 1333 North California Blvd. Box 8025, Walnut Creek, CA 94596.
060182	The Land, Epcot Center, Box 10000, Lake Buena Vista, FL 32830.
062499	Chevron Chemical Co., Agricultural Chemicals Division, 15049 San Pablo Ave., Box 4010, Richmond, CA 94804.
063241	Fermone Corp., Inc., 2620 W. 37th Drive, Phoenix, AZ 85009.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before August 25, 1992. This written withdrawal of the request for cancellation will apply only to the applicable 8(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1-year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s).

Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: May 18, 1992.

Douglas D. Camp, Jr.
Director, Office of Pesticide Programs.

[FR Doc. 92-12306 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-50742; FRL-4065-9]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Nonindigenous Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Ciba-Geigy Corp. a notification of intent to conduct small-scale field testing on cotton, vegetables, and ornamentals in Florida, Mississippi, California, New York, and Illinois of a strain of *Pseudomonas fluorescens* isolated from soil in Switzerland.

DATES: Comments must be received on or before June 10, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1126, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 246 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM-21), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-1900.

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's

"Statement of Policy: Microbial Products Subject to the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from Ciba-Geigy Corp., Greensboro, NC. The notification is dated April 13, 1992. The purpose of the proposed testing is to evaluate the efficacy of the nonindigenous strain of *Pseudomonas fluorescens* isolated in Switzerland for the control of soil-borne pathogens of cotton, vegetables, and ornamentals. The proposed field tests would be conducted at Ciba-Geigy research stations located in Florida, Mississippi, California, New York, and Illinois. The total area of the proposed test sites is 1.5 acres.

Dated: May 13, 1992.

Stephanie R. Irene,
Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-12304 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[PF-561; FRL-4054-1]

Pesticide Tolerance Petitions; Amendments and a Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces five amendments of pesticide petitions (PP's) and food/feed additive petitions (FAP's) and a withdrawal of a pesticide petition that proposed the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1126, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA

without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/telephone number	Address
Dennis Edwards (PM 19).	Rm. 207, CM #2, 703-305-6386.	1921 Jefferson Davis Hwy., Arlington, VA.
Joanne Miller (PM 23).	Rm. 237, CM #2, 703-305-7830.	Do.
Robert Taylor (PM 25).	Rm. 241, CM #2, 703-557-1800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received amendments to pesticide petitions and food/feed additive petitions as follows that were previously published in the *Federal Register* and proposed the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities. EPA has also received a request for a withdrawal of a petition without prejudice to future filing. These are as described below.

Amended Filings

1. *PP 6F3392*. Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, has submitted an amendment to the petition, notice of which appeared in the *Federal Register* of June 4, 1986 (51 FR 20343), proposing to amend 40 CFR 180.446 to establish a tolerance of 0.05 part per million (ppm) for 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine (also known as clofentazine) on apples. Nor-Am's amended petition proposes to decrease the tolerance to 0.01 ppm on apples and to delete the food additive petitions. (PM 19)

2. *PP 8F3600*. Dow Chemical, U.S.A., P.O. Box 1706, Midland, MI 48641-1706, has submitted an amendment to the petition, notice of which appeared in the *Federal Register* of March 9, 1988 (53 FR 7569), proposing to amend 40 CFR 180.431 by establishing a tolerance for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on sugar beet roots at 0.5 ppm and sugar beet tops at 0.5 ppm. Dow's amended petition proposes to increase the

tolerance from 0.5 to 0.8 ppm for sugarbeet roots and to increase the tolerance from 0.5 to 2.0 ppm for sugarbeet tops. The proposed analytical method for determining residues is gas chromatography. (PM 23)

3. *PP 8F3622*. Dow Chemical, U.S.A., has submitted an amendment to the petition, which appeared initially in the *Federal Register* of May 25, 1988 (53 FR 18896), and was amended in the *Federal Register* of April 18, 1990 (55 FR 14466), and as amended proposed to amend 40 CFR 180.431 by establishing tolerances of the herbicide clopyralid in or on the commodities as follows: corn, field, grain at 0.2 ppm; corn, field, green forage/silage at 1.0 ppm; and corn, field, fodder at 5.0 ppm. Dow Chemical has submitted a further amendment to the petition, proposing to amend the tolerances as follows: increasing from 0.2 ppm to 1.0 ppm for corn, field, grain; increasing from 1.0 ppm to 3.0 ppm for corn, field, green forage/silage; and increasing from 5.0 ppm to 10.0 ppm for corn, field, fodder. The proposed analytical method for determining residues is gas chromatography. (PM 23)

4. *FAP 0H5597*. Dow Chemical, U.S.A., has submitted an amendment to the petition, which appeared in the *Federal Register* of April 18, 1990 (55 FR 14466), proposing to amend 40 CFR 185.1100 and 186.1100 to establish a tolerance of 0.6 ppm for the herbicide clopyralid in or on the commodity corn, field, milling fractions. Dow has submitted an amendment to the petition, proposing to increase the tolerance from 0.6 ppm to 1.2 ppm. (PM 23)

5. *FAP 8H5551*. Dow Chemical, U.S.A., has submitted an amendment to the petition, notice of which appeared in the *Federal Register* of March 9, 1988 (53 FR 7569), proposing to amend 21 CFR 561.439 (recodified as 40 CFR 186.1100 in the *Federal Register* of June 29, 1988 (53 FR 24666)), to establish a regulation to permit residues of the herbicide clopyralid in or on sugar beet molasses at 7.0 ppm. The amended petition proposes to increase the tolerance from 7.0 ppm to 10.0 ppm. (PM 23)

Withdrawn Petition

6. *PP 0F3847*. Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL, has withdrawn without prejudice to future filing *PP 0F3847*, notice of which appeared in the *Federal Register* of June 29, 1990 (55 FR 26752), proposing to amend 40 CFR 180.427 by establishing a regulation to permit residues of fluralinate [(RS)-alpha-cyano-3-phenoxybenzyl (R)-2-[(2-chloro-4-(trifluoromethyl)-anilino]-3-methylbutanoate] in or on alfalfa hay at 5.5 ppm, alfalfa forage (green) at 1.5

ppm, alfalfa seed at 0.25 ppm; and by increasing residues of fluralinate in or on fat of cattle, goats, hogs, horses, poultry, and sheep from 0.01 ppm to 0.25 ppm and milk from .01 ppm to 0.05 ppm. (PM 25)

Authority: 7 U.S.C. 136a.

Dated: May 8, 1992.

Stephanie R. Irene,
Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-12185; Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 6G3350/T623; FRL 4061-4]

Carbon Disulfide; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for residues of the nematocidal carbon disulfide almonds, almond hulls, apricots, grapes, grapefruit, lemons, oranges, peaches, plums (fresh prunes) and tomatoes at 0.1 part per million (ppm), resulting from soil applications of the nematocidal sodium tetrathiocarbonate.

DATES: These temporary tolerances expire December 15, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: -Cynthia Giles-Parker, -Product Manager (PM) 22, -Registration Division (H7505C), -Office of Pesticide Programs, -Environmental Protection Agency, -401 M St., SW., -Washington, DC 20460. -Office location and telephone number: -Rm. 229, CM#2, -1921 Jefferson Davis Highway, -Arlington, VA, -703-305-5540.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the *Federal Register* of March 27, 1991 (56 FR 12727), stating that temporary tolerances had been renewed for residues of the nematocidal carbon disulfide in or on the raw agricultural commodities almonds, almond hulls, apricots, grapes, grapefruit, lemons, oranges, peaches, plums (fresh prunes) and tomatoes at 0.1 part per million (ppm), resulting from soil applications of the nematocidal sodium tetrathiocarbonate. These tolerances are renewed in response to pesticide petition (PP) 6G3350, submitted by Unocal Agriproducts, 3960 Industrial Blvd., Suite 600-B, West Sacramento, CA 95691.

The company has requested a 2-year renewal of temporary tolerances for residues of the nematocidal to permit the continued marketing of the above raw

agricultural commodities when treated in accordance with the provisions of the experimental use permit 612-EUP-1, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that renewal of temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active nematicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Unocal Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 15, 1993. Residues not in excess of these amounts remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 6, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 92-12187 Filed 5-26-92; 8:45 am]

Billing Code 6560-50-F

[PP 1G3927/T622; FRL 4061-3]

Fenoxaprop-ethyl; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the herbicide fenoxaprop-ethyl and its metabolites in or on the raw agricultural commodity barley grain at 0.05 part per million (ppm).

DATES: This temporary tolerance expires April 10, 1993.

FOR FURTHER INFORMATION CONTACT By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-7850.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the *Federal Register* of July 10, 1991 (56 FR 31403), announcing the establishment of a temporary tolerance for the combined residues of the herbicide fenoxaprop-ethyl [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate and its metabolites 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, in or on the raw agricultural commodity barley, grain at 0.05 part per million (ppm). This tolerance was issued in response to pesticide petition (PP) 1G3927, submitted by Hoechst Celanese Corporation, Route 202-205, P.O. Box 2500, Somerville, NJ 08876-1258.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when derived from use of fenoxaprop-ethyl in the culture of barley in accordance with the provisions of experimental use permit 8340-EUP-13, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other

relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Hoechst Celanese Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 10, 1993. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 6, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 92-12189 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180872; FRL 4065-1]

Receipt of Application for Emergency Exemption to use Mancozeb; Solicitation of Public Comment**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has received a specific exemption request from the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide mancozeb (CAS 8018-01-7) to control Sunflower rust on up to 75,000 acres of sunflowers in North Dakota. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before June 11, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180872," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Larry Fried, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-305-7889).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may,

at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, mancozeb, available as Dithane DF (75 percent dispersible granules) EPA Reg. No. 707-180; Dithane F-45 (4 pound gallon flowable) EPA Reg. No. 707-156; Dithane M45 (80 percent wettable powder) EPA Reg. No. 707-78 from Rohm and Haas Co., to control Sunflower rust, caused by *Puccinia helianthi* on up to 75,000 acres of sunflowers in North Dakota. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, over the last few years Races 3 and 4 of Sunflower rust have become common in North Dakota and Minnesota. No fungicides are registered for rust control on sunflowers. Crop rotation would help reduce the danger of a serious outbreak, but would not prevent it, since rust spores are airborne for long distances. Use of resistant hybrids is not practical since one-fourth of the hybrids currently available are susceptible to race 3 of *Puccinia helianthi* and all are susceptible to race 4 of *Puccinia helianthi*.

Dithane will be applied by air at a maximum rate of 1.6 pounds of active ingredient per acre. A maximum of two applications, a minimum of 10-days apart, may be made per growing season. Applications will not be made after flowering is completed (when flower rays are wilted).

The Agency initiated a Special Review of the ethylene bisdithiocarbamate fungicides (EBDCs) which includes mancozeb, on July 17, 1987. A Final Determination Action for the EBDCs, which includes mancozeb, was issued February 13, 1992. The Agency took this action based on an assessment of the risks from exposure to ethylenethiourea (ETU) present in, or formed as a result of metabolic conversion from pesticide products containing the active ingredient mancozeb. ETU, a potential human carcinogen, teratogen, and thyroid toxicant, is present as a contaminant, degradation product, and metabolite of all the EBDC pesticides. The Agency concluded that the estimated cumulative risk of 10^{-6} from all current 55 food uses is unacceptable and, therefore, cancelled the following food uses of mancozeb: apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. These cancellations reduce estimated lifetime dietary risk to

1.6×10^{-6} which the Agency has determined does not outweigh the benefits of the 45 retained uses.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the *Federal Register* and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review [40 CFR 166.24 (a)(5)].

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the North Dakota Department of Agriculture.

Dated: May 12, 1992.

Stephanie R. Irene,
Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-12186 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 9G3746/T620; FRL 4060-2]

Rohm and Haas Company; Renewal of a Temporary Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has renewed a temporary tolerance for residues of the fungicide 2-(2-(4-chlorophenyl)ethyl)-2-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile in or on the raw agricultural commodity stone fruits group (except dried plums) at 1.0 part per million (ppm).

DATES: This temporary tolerance expires October 31, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: -Cynthia Gile-Parker, -Product Manager (PM) 22, -Registration Division (H7505C), -Office of Pesticide Programs, -Environmental Protection Agency, -401 M St., SW., -Washington, DC 20460. -Office location and telephone number: -Rm. 251, CM#2, -1921 Jefferson Davis Highway, -Arlington, VA, -703-305-5540.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the *Federal*

Register of April 25, 1990 (55 FR 17488), stating that a temporary tolerance had been established for residues of the fungicide 2-(2-(4-chlorophenyl)ethyl)-2-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile in or on the raw agricultural commodity stone fruits group (except dried plums) at 1.0 part per million (ppm). This tolerance is renewed in response to pesticide petition (PP) 9G3746, submitted by Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105.

The company has requested a 1-year renewal of a temporary tolerance for residues of the fungicide to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 707-EUP-121, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Company must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires October 31, 1993. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-

354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 6, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 92-12190 Filed 5-26-92; 8:45 am]

Billing Code 6560-50-F

[PP 0G3892/T624; FRL 4061-6]

Sandoz Crop Protection Corporation; Establishment of Temporary Tolerances

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, parent compound only, in or on certain raw agricultural commodities. These temporary tolerances were requested by Sandoz Crop Protection Corporation.

DATES: These temporary tolerances expire March 1, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5540.

SUPPLEMENTARY INFORMATION: Sandoz Crop Protection Corporation, 1300 East Touhy Avenue, Des Plaines, IL 60018, has requested in pesticide petition (PP) 0G3892, the establishment of temporary tolerances for residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, parent compound only in or on the raw agricultural commodities corn grain, corn forage and corn fodder (stover) at 0.01 part per million (ppm). These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 55947-EUP-11, which is being issued under the Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Sandoz Crop Protection Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 1, 1993. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 6, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 92-12191 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

Reports on Ecological Risk Assessment

[FRL 4136-9]

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability: Three reports on ecological risk assessment; request for information.

SUMMARY: This notice announces the availability of three reports on ecological risk assessment. An EPA Risk Assessment Forum report entitled "Framework for Ecological Risk Assessment" (EPA-630/R-92/001) describes elements, or a framework, for ecological risk assessment and offers a simple, flexible structure for conducting and evaluating EPA ecological risk assessments. The Framework Report, in turn, is based in part on discussions at two Forum-sponsored workshops. The "Peer Review Workshop Report on a Framework for Ecological Risk Assessment" (EPA/625/3-91/022) includes peer review comments on a draft of the "Framework for Ecological Risk Assessment". The "Report on the Ecological Risk Assessment Guidelines Strategic Planning Workshop" (EPA/630/R-92/002) discusses issues for future ecological risk assessment guidelines. To assist in the development of such guidelines, EPA is asking interested members of the public to submit information on ecological risk assessment issues highlighted in this notice.

DATES: Information received by July 13, 1992, will be considered in planning peer review workshops on ecological risk assessment guidelines issues.

ADDRESSES: To obtain a single copy of any of these reports, interested parties should contact the ORD publication office, CERL-FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, tel: (513) 569-7562 or FTS: 684-7562. Please provide your name and mailing address and request the document by the title and EPA number.

These reports also will be available for public inspection and copying in the Public Information Reference Unit of the EPA Headquarters Library, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Information submitted in response to this notice may be mailed to Ms. Clare Stine, Technical Liaison, Risk Assessment Forum (RD-672), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Clare Stine, Technical Liaison, Risk Assessment Forum (RD-672), U.S.

Environmental Protection Agency, 401 M Street, SW., Washington, DC 20560, tel: (202) 260-6743 or FTS: 260-6743. (Copies of the report are not available at this address).

SUPPLEMENTARY INFORMATION:

Publication of the "Framework for Ecological Risk Assessment" (EPA/630/R-92/001) is a first step in a long-term program to develop Agency-wide ecological risk assessment guidelines. This report is neither a formal guideline nor a regulatory requirement. Rather, until formal guidance is available, it offers a simple, flexible structure for ecological risk assessment. The framework also offers a foundation for future guidelines and is expected to evolve with experience.

Preliminary work for ecological risk assessment guidelines began in 1989. As part of this work, EPA studied existing assessments and identified issues to help develop a basis for articulating guiding principles for assessing ecological risk. At the same time, EPA's Science Advisory Board urged EPA to expand its consideration of ecological risk issues to include the broad array of chemical and non-chemical stressors for which research and regulation are authorized in the environmental laws administered by EPA. As a result, EPA has embarked on a new program to develop guidelines for ecological risk assessment. This activity depends on the expertise of scientists and policymakers from a broad spectrum and draws principles, information, and methods from many sources.

In May 1991, experts in ecotoxicology and ecological effects attended a Risk Assessment Forum-sponsored peer review workshop on the draft "Framework for Ecological Risk Assessment" (56 FR 20223, 2 May 1991). The workshop draft proposed a framework for ecological risk assessment complemented by preliminary guidance on some of the ecological issues identified in the draft. Based on workshop recommendations summarized in the "Peer Review Workshop Report on a Framework for Ecological Risk Assessment" (EPA/625/3-91/022), the revised "Framework for Ecological Risk Assessment" now focuses on the basic structure of the ecological risk assessment process. Consistent with peer review recommendations, substantive risk assessment guidance is being reserved for study and development in future guidelines.

Subject matter for future guidelines was the focus of a workshop held from April 30 through May 2, 1991 (56 FR 16333, 22 April 1991). The workshop

report, "Report on the Ecological Risk Assessment Guidelines Strategic Planning Workshop" (EPA/630/R-92/002), discusses a wide range of issues related to topic areas for, and the scientific feasibility of, ecological risk assessment guidelines. Workshop discussions suggested that the first Agency-wide ecological risk assessment guidelines be structured not around specific endpoints or ecosystem types, but rather around the major phases of the ecological risk assessment process as now outline in the Framework Report: problem formulation, analysis, and risk characterization.

Issues

To help develop future guidelines, EPA is asking interested members of the public to submit relevant scientific information on eight topics, described below, from the ecological risk assessment process as described in the "Framework for Ecological Risk Assessment". Information submitted will become background material for authors of future ecological risk assessment guidelines. The Agency is particularly interested in data, concepts, principles, and methods that have been successfully used in actual ecological risk assessments.

1. Stressor-Ecosystem Interactions

In the initial stages of the risk assessment process, available information on stressor characteristics, ecological effects, and the ecosystem(s) at risk are used to help develop a conceptual model that identifies the environmental values to be protected, the data needed, and the analyses to be used in the risk assessment. Issues that EPA is soliciting comments on include how to use:

- (1) Observations of ecological effects to diagnostically identify possible stressors;
- (2) Knowledge of stressor modes of action to identify endpoints of concern; and
- (3) Knowledge of the physical and chemical properties of a stressor to determine the spatial and temporal scale of the risk assessment.

2. Selection of Endpoints

The scale and complexity of ecological systems provide many potential candidates for ecological risk assessment endpoints. Guidance will be needed to select the most appropriate endpoints for the full range of stressors, ecosystem types, and scales of ecological organization used in risk assessments. Additional information is requested on:

(1) Suggested endpoints for organism, population, community, and ecosystem-level assessments;

(2) Criteria for selecting endpoints;

(3) Criteria for selecting and linking endpoints from different levels of ecological organization (e.g., organism, population, community, and ecosystem); and

(4) Criteria for selecting endpoints that can discriminate between types of stressors (e.g., toxics, nutrients, habitat loss, etc.).

3. Exposure Analysis

Analyzing exposure in an ecological risk assessment requires information on the temporal and spatial distribution of both the stressor and ecological components of concern. The goal is to produce an exposure profile that defines the magnitude, duration, and spatial extent of the stressor. In this area, EPA is seeking information on: (1) How organism behavior and life cycle patterns influence exposure routes and the extent of exposure; (2) approaches for converting environmental concentrations into doses to aquatic and terrestrial organisms; (3) how physical and chemical properties of the stressor affect its bioavailability; (4) how to evaluate multiple stressor interactions for both mixtures of chemicals and combinations of chemical and nonchemical stressors; and (5) the availability, use, and validation of models that can be used to describe the transport and fate of stressors. Of particular interest are aspects of model use and criteria for validation (rather than a detailed listing of available models) and the applicability of concepts developed for chemical exposure to non-chemical stressors.

4. Ecological Response Analysis

Ecological response analysis involves a description of the relationship between the stressor and the endpoints used in the risk assessment. This may include models that quantify the relationship between the magnitude, frequency, or duration of the stressor and the magnitude of the ecological response. EPA is seeking information on:

(1) The types of stressor response models that would be appropriate for different categories of stressors (toxic chemicals, nutrients, and non-chemicals) for different levels of ecological organization;

(2) Methods for determining indirect effects;

(3) Stressor response relationships for multiple stressors and cumulative impacts of stressors; and

(4) Models to extrapolate between endpoints, species, and responses, from

laboratory to field, and from field to field.

5. Risk Integration Methods

Risk integration is the stage in the risk assessment process where exposure and ecological effects data are compared to evaluate risk. EPA is seeking information on risk integration methodologies, including the three techniques described in the "Framework for Ecological Risk Assessment":

(1) Comparing single effect and exposure values;

(2) Comparing distributions of effects and exposure; and

(3) Simulation models that integrate ecological exposure and effects.

6. Uncertainty Analysis

Estimation of uncertainty is important in each of the three proposed phases of ecological risk assessment. EPA is particularly interested in information on:

(1) The major sources of uncertainty in ecological risk assessments (e.g., conceptual and analytical models, data, the stochasticity in ecosystems, etc.); and

(2) Available techniques for estimating, aggregating, and propagating uncertainties throughout the ecological risk assessment process.

7. Ecological Recovery

Recovery of ecological components from the effects of stressors has been a recurring topic of interest in many of the previous Risk Assessment Forum-sponsored meetings on ecological risk assessment. Information is needed on the ecological principles and processes that govern the extent and rates of recovery, such as how the characteristics of the ecosystem affect its recovery and how the nature of the disturbance determines the time to recovery.

8. Ecological Significance

Interpretation of ecological significance provides a critical link between the estimation of risks and the communication of assessment results. For example, the significance of a predicted effect of a stressor on a population of an organism will depend both on the life history of the organism as well as the ecological factors controlling the population. Information is sought on how best to,

(1) Compare changes in ecological endpoints due to natural variability with those resulting from anthropogenic causes; and

(2) Apply criteria to determine biological/ecological significance.

Guidance on Submitting Information

EPA is inviting the public to submit scientific information on the topics identified in this notice. The Agency will use the information to assist the guidelines development program. When providing information on the issues described above, please include several kinds of background information to facilitate EPA's use of the submission.

- Identify the issue by the number (1-8) assigned above.

- Identify the source of information (e.g., Laboratory or field study, computer model, etc.). Published works and work based on actual risk assessments have the greatest potential utility.

- Identify the status and use of the information submitted. For example, indicate whether the information has been submitted to State or Federal agencies for risk assessment or regulatory purposes.

- Where possible, provide information relating to the time and cost requirements for risk assessment processes.

- Finally, the Agency is seeking scientific information for use in developing risk assessments. Management issues, political considerations, and personal opinions are less pertinent.

Additional information related to peer review workshops on these guideline issues will be published in the *Federal Register* later in 1992.

Dated: May 15, 1992.

F. Henry Habicht II,
Deputy Administrator.

[FR Doc. 92-12300 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-140182; FRL-4064-2]

Access to Confidential Business Information by Row Sciences Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Row Sciences Incorporated (ROW), of Rockville, Maryland, for access to information which has been submitted to EPA under section 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than June 8, 1992.

FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under Contract Number 68-D2-0030, contractor ROW, of 5515 Security Lane, Suite 500, Rockville, MD, will assist the Office of Pollution Prevention and Toxics (OPPT) in processing industry submissions received under TSCA section 8.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA Contract Number 68-D2-0030, ROW will require access to CBI submitted to EPA under section 8 of TSCA to perform successfully the duties specified under the contract. ROW personnel will be given access to information submitted to EPA under section 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under section 8 of TSCA that EPA may provide ROW access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until March 18, 1994.

ROW personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: May 11, 1992.

George A. Bonina,
Acting Director, Information Management
Division, Office of Pollution Prevention and
Toxics.

[FR Doc. 92-12305 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59307A; FRL-4066-6]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-92-8. The test marketing conditions are described below.

EFFECTIVE DATE: May 20, 1992.

FOR FURTHER INFORMATION CONTACT:

William B. Lee, New Chemicals Branch, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-613-A, 401 M St., SW., Washington, DC 20460, (202) 260-1769.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-92-8. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-92-8. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of import.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-92-8

Date of Receipt: April 10, 1992.

Notice of Receipt: April 28, 1992 (57 FR 17908).

Applicant: Confidential.

Chemical: (G) Quaternary ammonium sulfobetaine.

Use: (G) Detergent ingredient and bleach ingredient.

Production Volume: Confidential.

Number of Customers: 12,000.

Test Marketing Period: Two years, commencing on first day of commercial import.

Risk Assessment: EPA identified no significant health concerns for the test market substance. EPA identified environmental concerns for the test market substance, however, releases of the TME substance to surface water are not expected to exceed the toxic level of concern. Therefore, the Agency has determined that the test market activities will not present an unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

Dated: May 20, 1992.

John W. Melone,
Director, Chemical Control Division, Office of
Pollution Prevention and Toxics.

[FR Doc. 92-12303 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL 4137-1]

Proposed Assessment of Clean Water Act Class II Administrative Penalty and Opportunity to Comment

AGENCY: Environmental Protection Agency.

ACTION: Proposal of a Clean Water Act Class II administrative penalty and notice of public comment period.

SUMMARY: Pursuant to section 309(g) of the Federal Clean Water Act, 33 U.S.C. 1319(g), EPA is authorized to assess a Class II administrative penalty of up to \$125,000 against any person who, without authorization, discharges a pollutant to a water of the U.S., as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, and its implementing regulations. As required under section 309(g)(4), 33 U.S.C. 1319(g)(4), EPA Region IX hereby gives notice of the following proposed Class II penalty action and the public's opportunity to comment on it.

On May 20, 1992, EPA Region IX commenced proceedings to assess a Class II penalty of \$75,000 against Moss

Landing Harbor District, Moss Landing, California 95039 (In the Matter of Moss Landing Harbor District, EPA Docket No. CWA-404-09g-92-001) by filing a complaint with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1389. The complaint alleges that, between March 8 and June 7, 1991, Moss Landing Harbor District discharged approximately 17,000 cubic yards of marine sediments dredged from and around its North Harbor to waters of the U.S. adjacent to Moss Landing, Monterey Bay, California. The complaint further alleges that these discharges never received required authorization from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, 33 U.S.C. 1344. The public is invited to submit written comments on this proposed penalty action during a thirty day comment period.

ADDRESSES: Written comments on this proposed action should be submitted to the Regional Hearing Clerk, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, Ca, 94105.

DATES: The public comment period closes June 11, 1992.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of 40 CFR part 22, review the complaint or other documents filed by the parties in this proceeding, comment on the proposed penalty assessment, or participate in any hearing which may be held should contact the regional hearing clerk at the address or phone number listed above. Unless otherwise noted, the public record for the proceeding is located in the regional office at the address above and is available for public inspection during normal business hours. All information submitted by the respondent will be part of the public record and subject to provisions of law restricting public disclosure of confidential information.

SUPPLEMENTARY INFORMATION: This penalty proceeding and the procedures for public comment and participation are governed by EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," at 40 CFR part 22, which is available at most libraries. To provide an opportunity for public comment, EPA will not take final actions in the proceeding prior to thirty (30) days after publication of this notice.

Dated: May 18, 1992.
Alexis Strauss,
Deputy Director, Water Management
Division.
[FR Doc. 92-12301 Filed 5-26-92; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for renewal of license of Station WTRU(FM), Jupiter, Florida, and for a new commercial FM station at Jupiter, Florida:

Applicant city and state	File No.	MM docket No.
A. Robert B. Taylor; Jupiter, FL.	BRH-880926UJ	92-114
B. Jupiter Broadcasting Corporation; Jupiter, FL.	BP-890103MD	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each issue has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, published May 29, 1986. The letter shown before each applicant's name is used below to signify whether the issue applies to that particular applicant.

Issue Heading Applicant

1. Comparative, A,B
2. Ultimate, A,B

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC, 20037 (Telephone [202] 857-3800).

W. Jan Gay,
Assistant Chief, Audio Services Division,
Mass Media Bureau.
[FR Doc. 92-12220 Filed 5-26-92; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Port of Oakland/Matson Terminals, Inc.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-001953-010.

Title: Port of Oakland/Matson Terminals, Inc. Marine Terminal Agreement.

Parties:

The Port of Oakland ("Port")
Matson Terminals, Inc. ("Matson")

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 530 Water Street, Oakland, California 94607.

Synopsis: The Agreement provides for payment to the Port of specified percentages of Port terminal tariff charges for use of Matson's premises by other users.

Dated: May 20, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 92-12230 Filed 5-26-92; 8:45 am]
BILLING CODE 6730-01-M

Spain-Italy/Puerto Rico Island, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal

Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-011213-027.

Title: Spain-Italy/Puerto Rico Island Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.
Nordana Line A/S
Sea-Land Service, Inc.

Synopsis: The proposed amendment will add a new pool period from July 1, 1992 to December 31, 1992. It will also modify the withdrawal provision of the Agreement.

Agreement No.: 224-010974-008.

Title: Port of Oakland/International Transportation Services, Inc. Marine Terminal Agreement.

Parties:

The Port of Oakland
International Transportation Services, Inc. ("ITS")

Synopsis: The Agreement provides for the Port to reimburse ITS, out of certain of certain wharfage revenue at ITS facilities, costs in making certain gantry runway and related improvements, relocations of refrigerated electrical outlets and rail track extensions on assigned premises.

Agreement No.: 224-200287-003.

Title: Port of Oakland/Mitsui O.S.K. Lines, Ltd. Terminal Agreement.

Parties:

Port of Oakland ("Port")
Mitsui O.S.K. Lines, Ltd. ("MOL")

Synopsis: The subject modification extends MOL's lease at the Port's Seventh Street Container Terminal for an additional two years.

Agreement No.: 224-200510-002.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc. Terminal Agreement.

Parties:

Tampa Port Authority ("Port")
Tampa Bay International Terminals, Inc. ("TBIT")

Synopsis: The Agreement authorizes the Port to assess TBIT an incentive wharfage rate of one dollar per net ton on steel billets and reinforcing bars exported through the Port. It also includes an incentive charge for the

weighing of vehicles used to transport these products.

Agreement No.: 224-200662.

Title: Port Authority of New York & New Jersey/Ivaran Agencies Terminal Agreement.

Parties:

The Port Authority of New York and New Jersey ("the Port")
Ivaran Agencies, Inc. ("Ivaran")

Synopsis: The Agreement provides that the Port will make incentive payments to Ivaran for each container Ivaran moves through the port provided the container is shipped via rail to or from points in excess of 260 miles from the Port. The Agreement will terminate not later than December 31, 1992.

Agreement No.: 224-200663.

Title: Port Authority of New York & New Jersey/NSCSA (America), Inc. Container Incentive Agreement.

Parties:

The Port Authority of New York & New Jersey ("Port Authority")
NSCSA (America), Inc. ("NSCSA")

Synopsis: The Agreement provides for the Port Authority to make incentive payments to NSCSA for each loaded container shipped by rail to or from points more than 260 miles from the port.

Agreement No.: 224-200665.

Title: South Louisiana Port Commission/Hall-Buck Marine, Inc. Marine Terminal Lease Agreement.

Parties:

South Louisiana Port Commission
Hall-Buck Marine, Inc.

Synopsis: The Agreement provides for the Port of South Louisiana to lease approximately 38 acres of land to Hall-Buck Marine, Inc., for the storage and handling of bulk materials. The initial term of the Agreement is for five years.

Dated: May 20, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-12229 Filed 5-26-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and

the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Clipper Cruise Line, Inc. and Clipper Adventure Cruises, Inc., 7711 Bonhomme Avenue, St. Louis, Missouri 63105-1965.

Vessel: *World Discoverer*.

Dated: May 20, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-12261 Filed 5-26-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers of Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Clipper Cruise Line, Inc., Clipper Adventure Cruises, Inc., Discoverer Reederei GmbH & Co. KG, and Adventurer Cruises, Inc., 7711 Bonhomme Avenue, St. Louis, Missouri 63105-1965.

Vessel: *World Discoverer*.

Dated: May 20, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-12262 Filed 5-26-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

William Edward Hathorn, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available

for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 16, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *William Edward Hathorn*, Prentiss, Mississippi, and *Danny Meek Trusty*, Tylertown, Mississippi; to jointly acquire 2,400 shares as trustees of a voting trust of *Walthall Capital Group, Ltd.*, Tylertown, Mississippi, and thereby indirectly acquire *Walthall Citizens Bank*, Tylertown, Mississippi. Upon consummation, through shares owned directly and through the voting trust, Messrs. Hathorn and Trusty will control 66.12 percent of the shares of *Walthall Capital Group, Ltd.*, Tylertown, Mississippi.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Barbara Ley Trust*, Wayne, Nebraska, to acquire an additional 25.3 percent, for a total of 48.2 percent, and *Ruth L. Johnson and John R. Johnson*, Battle Creek, Nebraska, to acquire an additional 17.5 percent, for a total of 33.5 percent, of the voting shares of *State National Bancshares, Inc.*, Wayne, Nebraska, parent of *The State National Bank and Trust Company*, Wayne, Nebraska. Comments on this application must be received by June 12, 1992.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *Putra Masagung*, Jakarta, Indonesia; to acquire 64.31 percent of the voting shares of *Bank of San Francisco Company Holding Company*, San Francisco, California, and thereby indirectly acquire *Bank of San Francisco*, San Francisco, California.

Board of Governors of the Federal Reserve System, May 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12276 Filed 5-26-92; 8:45 am]

BILLING CODE 6210-01-F

Winton Jones Limited Partnership; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to

become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than June 19, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Winton Jones Limited Partnership*, Wayzata, Minnesota; to become a bank holding company by acquiring at least 54 percent of the voting shares of *Anchor Bancorp, Inc.*, Wayzata, Minnesota, and thereby indirectly acquire *First National Bank of Wayzata*, Wayzata, Minnesota, *First National Bank of West St. Paul*, West St. Paul, Minnesota, *Heritage National Bank*, North St. Paul, Minnesota, and *The Bank of St. Paul*, St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, May 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12277 Filed 5-26-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 912 3266]

Circuit City Stores, Inc.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Virginia-based

national chain of consumer electronics and appliance stores to comply with the Magnuson-Moss Consumer Warranty Act, Pre-Sale Availability Rule, which requires retailers to make manufacturers' warranty information available to consumers, either (1) by displaying the text of the warranty, or (2) by furnishing the text of the warranty to customers upon request, and prominently displaying signs advising customers of the availability of such warranties.

DATES: Comments should be received on or before July 27, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission having initiated an investigation of *Circuit City Stores, Inc.*, a corporation ("proposed respondent" or "respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Circuit City Stores Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent *Circuit City Stores, Inc.*, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 9950 Maryland Drive, Richmond, Virginia, 23233.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of this proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no

agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

The definitions of terms contained in § 101 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, and in Rule 702, 16 CFR 702.1, promulgated thereunder, shall apply to the terms of this Order.

I.

It is ordered that respondent Circuit City Stores, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device in connection with the sale or offering for sale of any consumer product in or affecting commerce, do forthwith cease and desist from failing to make a text of any written warranty on a consumer product actually costing more than \$15 readily available for examination by prospective buyers prior to sale through utilization of one or more means specified in 16 CFR 702.3(a), as amended.

II.

It is further ordered that respondent shall, within thirty (30) days of the date of service of this Order, deliver to each current retail store manager and assistant manager engaged in the sale of consumer products on behalf of respondent, a copy of this Order to cease and desist.

III.

It is further ordered that respondent shall, within thirty (30) days of the date of service of this Order, instruct all current retail store managers and assistant managers engaged in the sale of consumer products on behalf of respondent as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this Order.

IV.

It is further ordered that a respondent shall instruct all future retail store

managers and assistant managers who will be engaged in the sale of consumer products on behalf of respondent, before they assume said responsibilities for respondent, as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this order.

V.

It is further ordered that respondent shall, within thirty (30) days of the date of service of this Order, develop and implement a program to instruct its sales personnel about the availability and location of warranty information.

VI.

It is further ordered that respondent shall, for a period of not less than five (5) years from the date of service of the Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying (i) copies of all written instructions provided by respondent to its retail store managers and assistant managers and sales personnel regarding their obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this Order; (ii) copies of signs posted by respondent in its retail store outlets designed to elicit prospective buyers' attention to the availability of the text of written warranties for review upon request; and (iii) copies of the text of written warranties made readily available by respondent's retail store outlets for examination by prospective buyers on request.

VII.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the Order.

VIII.

It is further ordered that respondent shall, within sixty (60) days after service of this Order on it, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Circuit City Stores, Inc., Richmond, Virginia ("Circuit City"). Circuit City is a national chain of

consumer electronics and appliance stores.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become a part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

The complaint alleges the Circuit City has violated a rule promulgated by the Federal Trade Commission (16 CFR 703(A)) pursuant to the Magnuson-Moss Consumer Warranty Act ((15 U.S.C. 2301)). This Rule requires Circuit City to make manufacturers' warranty information available to consumers. The purposes of this Act, and the Rule, are to improve the information available to consumers, to prevent deception, and to promote competition, in the marketing of consumer product warranties offered by manufacturers.

The Rule, called the "Pre-Sale Availability Rule," gives retailers the option of either (1) displaying the text of manufacturers' warranties in close proximity to the product display; or (2) furnishing the text of manufacturers' warranties to customers upon request, and prominently displaying signs advising of the availability of such warranties. The complaint alleges that Circuit City has not complied with either of these options.

The proposed order requires Circuit City to comply with this Rule, to inform its retail store executives of their compliance responsibilities, and to develop a program for instructing its sales personnel about the availability and location of manufacturers' warranty information. Circuit City will be subject to civil penalties if it does not comply with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 92-12311 Filed 5-26-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 912 3267]

The Good Guys, Inc.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a California-based chain of consumer electronics stores to comply with the Magnuson-Moss Consumer Warranty Act, Pre-Sale Availability Rule, which requires retailers to make manufacturers' warranty information available to consumers, either (1) by displaying the text of the warranty, or (2) by furnishing the text of the warranty to customers upon request, and prominently displaying signs advising customers of the availability of such warranties.

DATES: Comments must be received on or before July 27, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of The Good Guys, Inc., a corporation ("proposed respondent" or "respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between The Good Guys, Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent The Good Guys, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 601 Van Ness Avenue, San Francisco, CA 94102.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of this proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect

thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

The definitions of terms contained in § 101 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, and in rule 702, 16 CFR 702.1, promulgated thereunder, shall apply to the terms of this Order.

I

It is ordered, That respondent The Good Guys, Inc., a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device in connection with the sale or offering for sale of any consumer product in or affecting commerce, do forthwith cease and desist from failing to make a text of any written warranty on a consumer product actually costing more than \$15 readily available for examination by prospective buyers prior to sale through utilization of one or more means specified in 16 CFR 702.3(a), as amended.

II

It is further ordered, that respondent shall, within thirty (30) days of the date of service of this Order, deliver to each current retail store manager and assistant manager engaged in the sale of consumer products on behalf of respondent, a copy of this Order to cease and desist.

III

It is further ordered, that respondent shall, within thirty (30) days of the date of service of this Order, instruct all current retail store managers and assistant managers engaged in the sale of consumer products on behalf of respondent as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this Order.

IV

It is further ordered, that respondent shall instruct all future retail store managers and assistant managers who will be engaged in the sale of consumer products on behalf of respondent, before they assume said responsibilities for respondent, as to their specific obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this Order.

V

It is further ordered, that respondent shall, within thirty (30) days of the date of service of this Order, develop and implement a program to instruct its sales personnel about the availability and location of warranty information.

VI

It is further ordered, that respondent shall, for a period of not less than five (5) years from the date of service of the Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying (i) copies of all written instructions provided by respondent to its retail store managers and assistant managers and sales personnel regarding their obligations and duties under the Magnuson-Moss Warranty Act (15 U.S.C. 2301) and this Order; (ii) copies of signs posted by respondent in its retail store outlets designed to elicit prospective buyers' attention to the availability of the text of written warranties for review upon request; and (iii) copies of the text of written warranties made readily available by respondent's retail store outlets for examination by prospective buyers on request.

VII

It is further ordered, that respondent shall notify the Commission at least thirty (30) days prior to any dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the Order.

VIII

It is further ordered, that respondent shall, within sixty (60) days after service of this Order on it, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Good Guys, Inc., San Francisco, California ("Good Guys"). Good Guys is a chain of consumer electronics stores.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

The complaint alleges that Good Guys has violated a Rule promulgated by the Federal Trade Commission (16 CFR 703(A)) pursuant to the Magnuson-Moss Consumer Warranty Act ((15 U.S.C. 2301). This Rule requires Good Guys to make manufacturers' warranty information available to consumers. The purposes of this Act, and the Rule, are to improve the information available to consumers, to prevent deception, and to promote competition, in the marketing of consumer product warranties offered by manufacturers.

The Rule, called the "Pre-Sale Availability Rule," gives retailers the option of either (1) displaying the text of manufacturers' warranties in close proximity to the product display; or (2) furnishing the text of manufacturers' warranties to customers upon request, and prominently displaying signs advising of the availability of such warranties. The complaint alleges that Good Guys has not complied with either of these options.

The proposed order requires Good Guys to comply with this Rule, to inform its retail store executives of their compliance responsibilities, and to develop a program for instructing its sales personnel about the availability and location of manufacturers' warranty information. Good Guys will be subject to civil penalties if it does not comply with the order.

The purpose of this analysis is to facilitate public comment on the

proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 92-12312 Filed 5-26-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 921 0032]

Rohm and Haas Co., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment.

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, Rohm and Haas, a Pennsylvania-based company, to acquire the Union Oil Company's emulsion polymer assets, as long as it divests Union Oil's straight acrylics business to Union Carbide, or another FTC-approved buyer, within 180 days. If divestiture is not effected within that period, Rohm and Haas would be required to consent to the appointment of a trustee. In addition, the consent agreement would require the respondents to assist the buyer in making the transition to full production.

DATES: Comments must be received on or before July 27, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Marc Schildkraut, FTC/S-3302, Washington, DC 20580. (202) 326-2622.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Divest

The Federal Trade Commission ("the Commission") having initiated an investigation of the proposed acquisition by Rohm and Haas Company ("Rohm and Haas"), a corporation, of certain assets constituting the emulsion polymers business of Union Oil Company of California, ("Union Oil") a corporation, and it now appearing that Rohm and Haas, and Union Oil, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order for Rohm and Haas to divest certain assets of the proposed acquisition;

It is hereby agreed By and between Rohm and Haas, Union Oil, by their duly authorized officers, and their attorneys; and counsel for the Federal Trade Commission, that:

1. Proposed Respondent Rohm and Haas is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business located at Independence Mall West, Philadelphia, Pennsylvania 19105.

2. Proposed respondent Union Oil is a corporation organized existing, and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 1201 West Fifth Street, Los Angeles, California 90017.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) any further procedural steps;
(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) all rights under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider

appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Rule 2.34 of the Commission's Rules the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and the order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, for purposes of this Order, the following definitions apply:

1. "Rohm and Haas" means Rohm and Haas Company, its predecessors, subsidiaries, divisions, groups, and

affiliates controlled by Rohm and Haas, and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

2. "Union Oil" means Union Oil Company of California, its predecessors, subsidiaries, divisions, groups, and affiliates controlled by Union Oil, and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

3. "Union Carbide" means Union Carbide Chemicals and Plastics Company, Inc., a New York Corporation, and any subsidiary or division thereof.

4. "Acquirer" means the firm or firms that acquire the Union Oil Architectural Acrylic Assets pursuant to Paragraph II of this Order.

5. "Architectural Acrylic Emulsion Polymers" means emulsion polymers that are derived solely from or consist of at least 90% by weight of the esters of acrylic acid (acrylates) and/or methacrylic acid (methacrylates) and are used, in whole or in part, in the manufacture of exterior paints to be applied to residential, commercial, or industrial buildings.

6. "Union Oil Architectural Acrylic Assets" means all product inventories, product technology (including product recipes, application know-how, reports, and any and all process know-how licenses), customer information, technical information, licenses to applicable patents, copyrights, trademarks, and test fences, necessary for the Acquirer to manufacture and sell the following Union Oil products: RES 60605, RES 6510, RES 6004, and RES 6034.

7. The "Divested Products" means RES 60605, RES 6510, RES 6004, and RES 6034.

8. "Commission" means the Federal Trade Commission.

9. "Viability and Competitiveness" of the Union Oil Architectural Acrylic Assets means that such assets when used in conjunction with the assets of the Acquirer are capable of producing and selling the Divested Products at the same rate as currently (at competitive prices) and are capable of functioning independently and competitively in the Architectural Acrylic Emulsion Polymers business.

II

It is further ordered that:

(A) No later than one hundred eighty (180) days after the date this Order becomes final Rohm and Haas shall, directly or through assignment by Union Oil, in good faith (a) divest all of the Union Oil Architectural Acrylic Assets

to Union Carbide pursuant to the terms of the Assignment and Assumption Agreement between Rohm and Haas and Union Carbide dated May 4, 1992 (the "Carbide Agreement") or (b) absolutely divest all of the Union Oil Architectural Acrylic Assets and also shall divest such additional ancillary assets and businesses and effect such arrangements that are necessary to assure the Viability and Competitiveness of the Union Oil Architectural Acrylic Assets, including manufacturing facilities if necessary, to an acquiring entity or entities that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

(B) If the divestiture is accomplished pursuant to Paragraph II.(A)(b) of this Order, Rohm and Haas shall demonstrate the Viability and Competitiveness of the Union Oil Architectural Acrylic Assets in its application for approval of a proposed divestiture. The purpose of the divestiture of the Union Oil Architectural Acrylic Assets is to ensure the continuation of the assets as ongoing, viable businesses engaged in the manufacture and sale of Architectural Acrylic Emulsion Polymers and to remedy and lessening of competition resulting from the acquisition as alleged in the Commission's complaint.

(C) Until the completion of the divestiture required by Paragraph II.(A) of this Order, Rohm and Haas and Union Oil shall take such action as is necessary to maintain the viability, competitiveness and marketability of the Union Oil Architectural Acrylic Assets and shall not cause or permit the destruction, removal or impairment of these Assets.

III

It is further ordered that, as part of the divestiture pursuant to Paragraph II.(A) of this Order,

(A) if the divestiture is accomplished pursuant to Paragraph II.(A)(a) of this Order, Rohm and Haas shall, for a period of one (1) year from the date of the divestiture pursuant to this Order, or for such shorter period as Union Carbide shall determine

1. make available, at no cost to Union Carbide, such technical assistance and know-how as Union Carbide shall require to enable Union Carbide to manufacture the Divested Products according to their current production specifications and performance characteristics; and

2. produce and ship for Union Carbide at prices set forth in the Carbide

Agreement from one or more of the manufacturing facilities that had been producing the Divested Products for Union Oil, such quantities of Divested Products as Union Carbide shall require.

(B) if the divestiture is accomplished pursuant to Paragraph II.(A)(b) of this Order,

1. Rohm and Haas shall enter into an agreement with the Acquirer for a period of one (1) year from the date of the divestiture pursuant to this Order, or for such shorter period as the Acquirer shall determine and the Commission shall approve, which shall effect such good faith arrangements as may be necessary to assure the continued Viability And Competitiveness of the Union Oil Architectural Acrylic Assets in the hands of the Acquirer. These arrangements shall include:

a. Making available, at no cost to the Acquirer, such technical assistance and know-how as the Acquirer may require to enable the Acquirer to manufacture the Divested Products according to their current product specifications and performance characteristics;

b. Producing and shipping for the Acquirer at a price as close to Rohm and Haas' manufacturing and shipping cost as may reasonably be determined, from one or more of the manufacturing facilities that had been producing the Divested Products for Union Oil, such quantities of Divested Products as the Acquirer shall require;

c. Performing such other arrangements as may be necessary to assure the continued Viability and Competitiveness of the Union Oil Architectural Acrylic Assets in the hands of the Acquirer; and

2. Such agreement shall receive the prior approval of the Commission and shall be effected only in a manner that receives the prior approval of the Commission. In its application for approval of a proposed divestiture, Rohm and Haas shall demonstrate how the agreement in conjunction with the divestiture maintains the Viability and Competitiveness of the Union Oil Architectural Acrylic Assets and how it is consistent with the purpose of the divestiture as set out in Paragraph of II.(B) of this Order.

IV.

It is further ordered that, for a period of one (1) year from the date of the divestiture pursuant to this Order, Union Oil shall make available, at no cost to the Acquirer, such technical assistance and know-how in its possession, in order to assist the Acquirer in the manufacture and sale of the Divested Products according to their current

product specifications and performance characteristics.

It is further ordered that Rohm and Haas shall comply with all terms of the Preservation Agreement, attached to this Order and made a part hereof as Appendix I. Said Agreement shall continue in effect until the Union Oil Architectural Acrylic Assets have been divested or until such other time as the Preservation Agreement provides.

VI

It is further ordered that:

(A) If Rohm and Haas does not divest the Union Oil Architectural Acrylic Assets to an Acquirer pursuant to Paragraph II.(A) of this Order one hundred eighty (180) days after the date this Order becomes final, Rohm and Haas shall consent to the appointment of a trustee by the Commissions to effectuate the obligations set out in Paragraph II.(A) of this Order. In the event the Commission or the Attorney General brings an action pursuant to section 5(1) of the Federal Trade Commission Act, 15 U.S.C. section 45(1), or any other statute enforced by the Commission, Rohm and Haas shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Rohm and Haas to comply with this Order.

(B) If a trustee is appointed by the Commission or a court pursuant to Paragraph VI.(A) of this Order, Rohm and Haas shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

(a) The Commission shall select the trustee subject to Rohm and Haas' consent, which shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

(b) The trustee shall, subject to the prior approval of the Commission, have the exclusive power and authority to effectuate the agreements required by Paragraph III of this Order and to divest the Union Oil Architectural Acrylic Assets and such other properties acquired by Rohm and Haas from Union Oil or such other properties of Union Oil as may be reasonably necessary to assure the continued Viability and Competitiveness of the Union Oil

Architectural Acrylic Assets in the hands of a third party.

(c) The trustee shall have one year from the date the trust agreement is executed to accomplish the divestiture. If, however, at the end of one year the trustee has submitted a plan of divestiture or believes that divestiture may be accomplished within a reasonable period, the divestiture period may be extended by the Commission.

(d) The trustee may, subject to a determination by the Commission that it would be necessary to accomplish the required divestiture, add such other assets of Rohm and Haas acquired from Union Oil or other assets of Union Oil as may be required to effectuate the remedial purposes of this Order.

(e) Subject to an appropriate confidentiality agreement, the trustee shall have full and complete access to the personnel, books, records, and facilities regarding the Union Oil Architectural Acrylic Assets, and Rohm and Haas shall develop such financial or other information relevant to the assets to be divested as such trustee may reasonably request. Rohm and Haas shall cooperate with the trustee, and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Rohm and Haas shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or the court for a court-appointed trustee.

(f) Subject to Rohm and Haas' absolute and unconditional obligation to divest at no minimum price, and the purpose of the divestiture as required by this Order, the trustee shall use his or her best efforts to negotiate the most favorable price and terms for the Union Oil Architectural Acrylic Assets and other assets that may need to be divested.

(g) The trustee shall serve without bond or other security at the cost and expense of Rohm and Haas on such reasonable and customary terms and conditions as the Commission or a court for a court-appointed trustee may set. The trustee shall have authority to employ at the cost and expense of Rohm and Haas such consultants, accountants, attorneys, business brokers, appraisers, and other representatives and assistants (all of whom shall be subject to appropriate confidentiality agreements) as are reasonably necessary to assist in the divestiture. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission or court, as the case may be, of the account of the trustee, including fees for his or her services, all

remaining monies shall be paid to Rohm and Haas and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent upon the trustee's divesting the Union Oil Architectural Acrylic Assets and any other assets to be divested in accordance with this Order.

(h) Except in the case of reckless disregard of his or her duties or intentional wrongdoing, Rohm and Haas shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this Order.

(i) Within thirty (30) days of the appointment of the trustee, Rohm and Haas shall, subject to the approval of the Commission, and of the court for a court-appointed trustee, and consistent with the provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture and enter into the agreements required by paragraph III of this Order.

(j) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner under the same conditions as required by this Order.

(k) The Commission, and in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

(l) The trustee shall have no obligation or authority to operate or maintain the assets to be divested.

(m) The trustee shall report in writing to the Commission, and to Rohm and Haas, every sixty (60) days from the date the trust agreement is executed, regarding the trustee's efforts to accomplish the divestiture required under this Order.

VII

It is further ordered that:

(A) For a period commencing on the date this Order becomes final and continuing for ten (10) years, Rohm and Haas shall not acquire, without the prior approval of the Commission, directly or indirectly, through subsidiaries or otherwise, assets located in the United States, used for or, within one (1) year of the date of the agreement to acquire, that had been used for the production of Architectural Acrylic Emulsion

Polymers. For a period commencing on the date this Order becomes final and continuing for ten (10) years, Rohm and Haas also shall not acquire, without the prior approval of the Commission, directly or indirectly, through subsidiaries or otherwise, the whole or any part of the stock or share capital of, or any equity or other interest in, any entity that owns or operates assets located in the United States that are engaged in or, within one (1) year of the date of the agreement to acquire, have been engaged in, the production of Architectural Acrylic Emulsion Polymers. Provided, however, these prohibitions shall not relate to:

1. The construction of new facilities or the acquisition of new assets for use in existing facilities;
2. The acquisition of any used equipment for an acquisition price less than \$250,000;
3. The acquisition, for investment purposes only, of the stock or share capital of an entity if as a result of such acquisition, Rohm and Haas would own less than one (1) percent of each class of securities of such entity; and
4. The acquisition of a non-exclusive license.

(B) One year after the date this Order becomes final, and annually thereafter for nine (9) more years, Rohm and Haas shall file with the Commission a verified written report of its compliance with the provisions of this Order.

VIII.

It is further ordered that Rohm and Haas and Union Oil shall each file with the Commission a verified report in writing thirty (30) days after the date this Order becomes final, and every sixty (60) days thereafter until the obligations of paragraphs II and III this Order have been fully satisfied, setting forth in detail the manner and form in which each has complied, is complying, or intends to comply with the terms of this Order.

IX.

It is further ordered that, for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Rohm and Haas or to Union Oil, as applicable, made to its principal office, Rohm and Haas and Union Oil shall permit any duly authorized representatives of the Commission:

(A) Access, during office hours and in the presence of counsel, to inspect and designate for copying all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Rohm

and Haas or of Union Oil, as applicable, relating to any matters contained in this Order; and

(B) Upon five days notice to Rohm and Haas or to Union Oil, as applicable, and without restraint or interference from Rohm and Haas or Union Oil, to interview officers or employees of Rohm and Haas and Union Oil, who may have counsel present, regarding such matters.

X.

It is further ordered that Rohm and Haas and Union Oil shall each notify the Commission at least thirty (30) days prior to any proposed change in their respective structures, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, assignment or sale of substantially all of its assets, or any other change, that may affect compliance obligations arising out of the Order or that may affect the company's Architectural Acrylic Emulsion Polymers business.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted for public comment from Rohm and Haas Company ("Rohm and Haas") and Union Oil Company of California ("Union Oil") an agreement containing a consent order to divest. The agreement and consent order are designed to remedy any anticompetitive effect stemming from Rohm and Haas' acquisition of the acrylics business of Union Oil. Paint manufacturers use acrylics, also known as synthetic latex, in latex house paint.

The agreement has been placed on the public record for 60 days for reception of comments from interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and comments received, and will decide whether it should withdraw from the agreement or make final the order contained in the agreement.

According to the draft of complaint that the Commission intends to issue, Rohm and Haas and Union Oil are nationwide competitors in the manufacture and sale of acrylic emulsion polymers. These products, among other things, are used as binders in the manufacture of exterior latex house paint. Binders in paint adhere to paint pigment molecules and produce a film that, upon drying, permits the paint to adhere to the painted surface. Sales of acrylic emulsion polymers for exterior house paint were about \$160 million in 1991.

The Commission's complaint charges that on November 18, 1991, Rohm and Haas and Union Oil agreed that Rohm and Haas would acquire the emulsion polymers business of Union Oil, including its acrylics business, for \$175 million. The Commission has reason to believe that the acquisition, as well as the agreement to enter into the acquisition, may have anticompetitive effects and be in violation of section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

According to the draft complaint, Rohm and Haas is a dominant firm in the acrylics for exterior house paint market, and the acquisition of Union Oil's acrylics business may lead to higher prices and inferior service to paint companies and consumers of paint.

The agreement containing consent order attempts to remedy the Commission's competitive concerns about the acquisition. Under the terms of the proposed order, Rohm and Haas must divest Union Oil acrylic assets only to a buyer previously approved by the Commission, or, without additional Commission approval, to Union Carbide Corporation. The consent order also would require Rohm and Haas and Union Oil to assist the new buyer in making the transition to full production.

For ten years, the agreement containing consent order also would require Rohm and Haas to get Commission approval before acquiring assets used to produce, or an interest in a United States company that produces, acrylic emulsion polymers for exterior house paint, without the prior approval of the Commission.

By accepting the consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or in any way to modify their terms.

Donald S. Clark,
Secretary.

[FR Doc. 92-12310 Filed 5-26-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3381]

Sun Co., Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, Sunoco from making any representation concerning the superiority of Ultra octane gasoline in providing engine power or acceleration for any automobile, unless the respondents possess competent and reliable scientific evidence to substantiate the claims.

DATES: Complaint and Order issued May 6, 1992.¹

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S-4002, Washington, DC 20580. (202) 326-3153.

SUPPLEMENTARY INFORMATION: On Thursday, December 19, 1991, there was published in the *Federal Register*, 56 FR 65903, a proposed consent agreement with analysis in the Matter of Sun Company, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.

[FR Doc. 92-12309 Filed 5-26-92; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D-0211]

FDA's Policy Statement for the Development of New Stereoisomeric Drugs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a policy statement entitled "FDA's Policy Statement for the Development of New Stereoisomeric Drugs". The policy statement is intended to assist pharmaceutical manufacturers in the development of new stereoisomeric drugs.

DATES: Written comments by July 27, 1992.

ADDRESSES: Submit written requests for single copies of the policy statement to the CDER Executive Secretariat Staff, Center for Drug Evaluation and Research (HFD-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the policy statement to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The policy statement and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judi Weissinger, Center for Drug Evaluation and Research (HFD-502), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2544.

SUPPLEMENTARY INFORMATION: Stereoisomers are organic molecules that are identical in atomic constitution and bonding, but they differ in the three-dimensional arrangement of their atoms. The stereoisomeric pairs are those with one or more asymmetric (chiral) centers whose enantiomers (individual stereoisomers) are mirror images that have essentially identical physical (except for optical rotatory) and chemical (except in a chiral environment) properties.

The policy statement focuses on issues relating to the development of individual enantiomers and racemates. Racemates are compounds with a 50:50 proportion of enantiomers. Such stereoisomers usually require specialized chiral techniques for the correct identification, characterization, separation, and measurement. They are often readily distinguished by biological systems, however, and may have different pharmacokinetic properties, such as absorption, distribution, biotransformation, and excretion; and they may have quantitatively or qualitatively different pharmacologic or toxicologic effects. For stereoisomers developed as racemates, the properties

of the individual enantiomers have not generally been well studied or characterized. Development of racemates raises issues of acceptable manufacturing control of synthesis and impurities, adequate pharmacologic and toxicologic assessment, proper characterization of metabolism and distribution, and appropriate clinical evaluation. This policy statement is intended to address these issues thereby assisting manufacturers in the development of new stereoisomeric drugs.

Interested persons may, on or before July 27, 1992, submit to the Dockets Management Branch (address above) written comments on the policy statement. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Dated: May 20, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-12278 Filed 5-26-92; 8:45 a.m.]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1992.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 27-29, 1992, 8:30 a.m.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia 22202.

The meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: The agenda will include updates on the Bureau of Health Care Delivery and Assistance, the Division of the National Health Service Corps, the Division of Health Services Scholarships, and the Philadelphia Regional Office. Issues to be discussed include: physician placement; site development for nurse midwives; prioritization process; scholarship application process and selection; recruitment and retention.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, room 7A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 Telephone (301) 443-1470.

¹ Copies of the Complaint, the Decision and Order, and statements are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Agenda Items are subject to change as priorities dictate.

Dated: May 21, 1992.

Jackie E. Baum, *

Advisory Committee Management Officer,
HRSA.

[FR Doc. 92-12329 Filed 5-26-92; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Indian Health Service

Privacy Act of 1974: Alteration of Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of an alteration of system of records 09-17-0002, "Indian Health Service Scholarship Programs, HHS/IHS/OHP." The altered 09-17-0002, system of records, will be renamed the "Indian Health Service Scholarship and Loan Repayment Programs, HHS/IHS/OHP."

DATES: The PHS invites interested parties to submit comments on the proposed internal and routine uses on or before June 26, 1991. The PHS has sent a Report of Altered System to the Congress and to the Office of Management and Budget (OMB) on May 12, 1992. The alteration to the system will be effective 60 days from the date of publication, unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please submit comments to: IHS Privacy Act Officer, Indian Health Service, Parklawn Building, Room 6-37, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-0461/0462. Comments received will be available for inspection at this same address from 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Policy Coordinating Official:

Director, Division of Health Professions, Recruitment and Training,
Indian Health Service,
Twinbrook Metro Plaza,
12300 Twinbrook Parkway, Suite 100,
Rockville, Maryland 20852,
(301) 443-6197

Scholarship Applicants/Recipients:
Chief, Scholarship Branch, DHPRT,
Indian Health Service
Twinbrook Metro Plaza,
12300 Twinbrook Parkway, Suite 100,
Rockville, Maryland 20852
(301) 443-6197

Loan Repayment Applicants/ Recipients:

Coordinator, Loan Repayment Program,
DHPRT,
Indian Health Service,
Twinbrook Metro Plaza,
12300 Twinbrook Parkway, Suite 100,
Rockville, Maryland 20852
(301) 443-6197

None of the numbers listed above is toll free.

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) currently maintains a System of Records (SOR) concerning its Scholarship Programs. The SOR for the IHS Scholarship Programs was formerly named "The Indian Health Service Scholarship Programs, HHS/IHS/OHP." We are changing the title "The Indian Health Service Scholarship Programs, HHS/IHS/OHP," to "The Indian Health Service Scholarship and Loan Repayment Programs, HHS/IHS/OHP."

We are altering this system to incorporate the Loan Repayment Program with the Scholarship Program and to have both the IHS Scholarship Program and the IHS Loan Repayment Program under the same SOR Notice. In addition, we are proposing to add seven new routine uses to the existing five routine uses to facilitate the management of the Loan Repayment Program. This altered SOR is needed to ensure compliance with civil and criminal laws of State, Federal and local jurisdictions; to facilitate employment of scholarship and loan repayment recipients in Indian health programs; to coordinate funds paid to loan repayment and scholarship program recipients; to facilitate the recruiting, screening, and matching of scholarship and loan repayment program recipients; to evaluate the suitability of applicants in the loan repayment and scholarship programs; and, to disclose a defaulting scholarship or loan repayment program recipients record(s) for the purpose of debt collection.

The proposed additional routine uses are as follows:

6. The IHS proposes to disclose records to appropriate agencies, whether State, Federal or local, charged with regulating violations of civil or criminal law related to the function of the Scholarship or Loan Repayment Program function. This disclosure is necessary to comply with civil and criminal laws of State, Federal and local jurisdictions.

7. The IHS proposes to disclose records to professional schools, Department contractors, present and former employers, and other interested health professions groups which guide,

inform and assist in the coordination of funds and employing the Scholarship and Loan Repayment Program recipients. The disclosures would also be made to evaluate the individual's professional accomplishments, performance, educational background and to determine suitability for employment in one of the placement options for scholarship recipients listed in section 104(b)(3)(A) - (D) and eligible Indian health program sites for loan repayment participants listed in section 108(a)(2) of the Indian Health Care Improvement Act.

8. The IHS proposes the disclosure of the Scholarship and Loan Repayment Program participants names, the professional school they are attending, and the date of graduation to private associations responsible for coordinating funds paid to students from Federal or other sources.

9. The IHS proposes to disclose records to contractors for the purpose of processing or refining records in the system. The IHS needs to disclose these records to contractors to ensure accurate records.

10. The IHS proposes the disclosure of records to contractors for the purpose of recruiting, screening, and matching health professionals for assignment to or employment in a medical facility located in one of the mandated options or sites in sections 104 and 108. Such disclosures to contractors will enable the IHS to place its scholarship recipients after graduation and to place its loan repayment program participants.

11. The IHS proposes to disclose records to private parties such as present and former employees, references listed on applications and associated forms, other references and educational institutions to obtain information to evaluate an individual's professional accomplishments, performance and educational background, and to determine if an applicant is suitable for participation in the scholarship and loan repayment programs. Such disclosures are necessary to determine the suitability and competence of individuals participating in the scholarship and loan repayment programs.

12. The IHS proposes to disclose a defaulting participant's record to other Federal Agencies to effect a salary or administrative offset for debts owed by Federal employees, and to the Internal Revenue Service (IRS) to request an individual's current mailing address to locate him/her for purposes of collecting or compromising a debt. Such disclosures are necessary to collect debts owed to the Federal Government

by participants of the Scholarship and Loan Repayment Programs.

The IHS is also going to disclose information to Consumer Reporting Agencies, in accordance with 5 U.S.C. 552a(b)(12).

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: May 15, 1992.

Wilford J. Forbush,

Director, Office of Management.

09-17-0002

SYSTEM NAME:

Indian Health Service Scholarship and Loan Repayment Programs, DHHS/IHS/OHP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Scholarship and Loan Repayment Branch, Indian Health Service, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852
Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409

Records are also located at the Department of Health and Human Services (HHS) Regional Offices and Indian Health Service (IHS) Area Offices. A list of the HHS Regional Offices and IHS Area Offices where individually identifiable data are currently located is available upon request to the Policy-Coordinating Official.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and recipients of benefits from scholarship and loan repayment programs administered by the IHS. The IHS scholarship program includes the Health Professions Pre-Graduate Scholarship Program for Indians, the Health Professions Preparatory Scholarship Program for Indians, and the Health Professions Scholarship Program. Also included are records of scholarship or loan repayment recipients who are fulfilling their IHS service obligations as a result of receiving funds from these IHS programs, and individuals who have expressed an interest in employment in or an assignment to an IHS medical facility or other facility described in sections 104 and 108 of the Indian Health Care Improvement Act, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains: Name, telephone number, work, school, home and/or mailing address; Social Security Number; IHS scholarship or IHS loan repayment application; associated forms; employment data; professional performance and credentialing history of licensed health professionals; preference for site selection; personal, professional, and demographic background information; progress reports (which include related data, correspondence, and professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions); payroll forms; lender's loan repayment confirmation forms; IHS loan recipient's request form for quarterly loan repayment distribution among lenders; deferment and placement date; and repayment/delinquent/default status information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 1613, including the Health Professions Compensatory Preprofessional and the Health Professions Pregraduate Scholarships; 25 U.S.C. 1613a, Health Professions Scholarship; 25 U.S.C. 1616a, IHS Loan Repayment Program; 5 U.S.C. 5514, Requirement That Applicant Furnish Taxpayer Identifying Number; 42 U.S.C. 216(a), for PHS Commissioned Officers, and 5 U.S.C. 3301 for civil service employees, both of which authorize verification of an individual's suitability for employment; and 42 U.S.C. 254f, Assignment of Corps Personnel.

PURPOSE(S):

The purposes of this system of records are: (1) To select applicants for the IHS Scholarship Programs and the IHS Loan Repayment Program; (2) to monitor scholarship or loan repayment related activities, such as payment tracking, deferment of service obligation, default, placement, and claims determination; (3) to select and match IHS scholarship and loan repayment recipients for employment assignments to medical programs, such as IHS medical facilities; (4) to monitor services provided by these IHS health providers; (5) to maintain records on and to verify individuals' educational/professional employment data and performance history; (6) to assist PHS officials in the collection of overdue debts owed under the IHS Scholarship Programs and Loan Repayment Program; and (7) to negotiate site assignments, and recruit health professionals for IHS programs. Portions of records from this system of records may be used by staff of the Health

Resources and Services Administration (HRSA), PHS, who maintain System No. 09-15-0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for activities related to the participants' breach of contract including debt collection. Information provided to HRSA staff includes, but may not be limited to the participants' identification, number of days in school while covered by an IHS scholarship agreement, number of days served and still owed, and amount of funds expended and still owed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The IHS may disclose records to a congressional office in response to a verified inquiry from the congressional office made at the written request of the subject individual.

2. Records may be disclosed to authorized persons employed by the grantee educational institution (the educational institution which the recipient of a scholarship grant is attending or the hospital affiliated with an educational institution the IHS loan repayment recipient is attending to complete his/her residency requirement) as needed for the administration of a scholarship grant award.

3. Records may be disclosed to other Federal agencies that also provide scholarship or loan repayment funding at the request of these Federal agencies to detect or curtail fraud and abuse in Federal scholarship programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

4. The IHS will provide to any person or organization requesting it a list of recipients of scholarship grants, including the school attended and tribal affiliation of each recipient.

5. The Department may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the

court or other tribunal is relevant and necessary to the litigation, would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

6. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

7. The IHS may disclose records consisting of names, disciplines, current mailing addresses, and dates of graduation of scholarship recipients to designated coordinators at each school of medicine, osteopathy, and dentistry participating in the IHS scholarship program or at which the IHS loan recipient is completing his/her residency requirement for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation.

8. The IHS may disclose records consisting of name of the IHS scholarship or IHS loan repayment recipient, professional school he/she is attending, and the date of graduation to health professions associations and other interested health professions associations and other interested health professions groups which have responsibility for coordinating funds paid to students from Federal and other sources.

9. The IHS may disclose records contained in this system of records to HHS contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

10. The IHS may disclose records contained in this system of records to HHS contractors and subcontractors for the purpose of recruiting, screening, and matching health professionals for assignment to or employment in a medical facility located in one of the options cited in section 108(a)(2)(A). In addition, HHS contractors and subcontractors:

(a) May disclose biographic data and information supplied by potential applicants:

(1) To references listed on application and associated forms for the purpose of evaluating the applicant's professional qualifications, experience, and suitability; and

(2) To a State or local government medical licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing.

(b) May disclose biographic data and information supplied by references listed on application and associated forms to other references for the purpose of inquiring into the applicant's professional qualifications and suitability; and

(c) May disclose professional suitability evaluation information to IHS officials, prospective employers, or to site representatives, for the purpose of appraising the applicant's professional qualifications and suitability for site assignment or employment. Contractors maintain, and are also required to ensure that subcontractors maintain Privacy Act safeguards with respect to such records.

11. The IHS may disclose records contained in this system of records to private parties such as present and former employers, references listed on application and associated forms, other references, and educational institutions. The purpose of such disclosures is to obtain information to evaluate an individual's professional accomplishments, performance, and educational background, and to determine if an applicant is suitable for employment in/assignment to a medical facility located at one of the sites listed in section 108(a)(2)(A).

12. The IHS may disclose records contained in this system of records to other Federal agencies that also provide scholarship or educational loan repayment funding at the request of these Federal agencies in conjunction with a computer matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal scholarship or educational loan repayment programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit

Reporting Act (15 U.S.C. 158a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable PHS agencies to improve the quality of loan and scholarship decisions by taking into account the financial reliability of applicants. Disclosure of records will be limited to the individuals name, Social Security Number, and other information necessary to establish the identity of the individual, the amount, status and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, ledgers, magnetic tapes, and discs, and on electronic word processing diskettes.

RETRIEVABILITY:

Records which identify individual persons are indexed by name or identification number of scholarship or loan repayment applicant or recipient.

SAFEGUARDS:

1. *Authorized Users:* Access is limited only to authorized personnel in the performance of their duties. Authorized personnel include: The System Manager, his/her staff, IHS Area Office Scholarship or IHS Loan Repayment Coordinators, IHS Headquarters Branch Chiefs acting as advisors to scholarship or IHS loan repayment recipients, staffs of the IHS Grants Management Offices in IHS Headquarters and IHS Area Offices and HRSA debt management staff for activities related to the participants' breach of contract including debt collection.

2. *Physical Safeguards:* Paper records are stored in locked file cabinets. The records storage areas are secured during off-duty hours. Magnetic tapes, discs, and word processing diskettes are stored in areas where fire and life safety codes are strictly enforced. Word processing diskettes are off-loaded and stored in locked cabinets when not in use. All automated and nonautomated documents are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. The Automated Data Processing remote stations are locked during non-standard working hours. Twenty-four hour, 7-day security guards perform random checks on the physical security of the data and the storage areas. Backup files are

maintained in an off-site facility with controlled entrances and exits.

3. **Procedural Safeguards:** All IHS personnel who make use of records contained in this system of records are made aware of their responsibility under the provisions of the Privacy Act and are required to maintain Privacy Act safeguards with respect to such records. The records storage areas are not left unattended during office hours, including lunch hours. Records are not removed from these areas in which they are maintained in the absence of proper charge-out procedures. A data set name controls the release of data to only authorized users. When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

RETENTION AND DISPOSAL:

1. Scholarship applications are returned to unsuccessful applicants 6 months after the IHS scholarships are awarded for each fiscal year. The records for the scholarship participants who are obligated to the IHS, are retained for approximately 4 to 15 years (depending on when the student completes the obligatory service) after the final award payments has been made by the IHS. The records for the scholarship applicants, who are not obligated to the IHS, are destroyed 6 years and 3 months after final payment, or upon resolution of any adverse audit findings, whichever is later.

2. Loan repayment applications are returned to unsuccessful applicants after the end of the following fiscal year. Loan repayment applications are automatically applied to the loan repayment cycle of the following fiscal year if the application is turned down for the current fiscal year. The records for the loan repayment participants are destroyed 8 to 10 years after the final payment, or upon resolution of any adverse audit findings, whichever is later.

Records are transferred to the Federal Records Center 2 years after final repayment or when closed, for 4 years, and are then subsequently disposed of in accordance with the IHS Records Disposition Schedule. The IHS Records Disposition Schedule regulations for these records may be obtained by writing to the System Manager at the address listed below:

SYSTEM MANAGER(S) AND ADDRESSES:

Policy Coordinating Official:
Director, Division of Health Professions
Recruitment and Training, Indian
Health Service, Twinbrook Metro

Plaza, 12300 Twinbrook Parkway,
Suite 100, Rockville, Maryland 20852

Scholarship Applicants/Recipients:

Chief, Scholarship Branch, DHPRT,
Indian Health Service, Twinbrook
Metro Plaza, 12300 Twinbrook
Parkway, Suite 100, Rockville,
Maryland 20852

Loan Repayment Applicants/ Recipients:

Coordinator, Loan Repayment Program,
Scholarship Branch, DHPRT, Indian
Health Service, Twinbrook Metro
Plaza, 12300 Twinbrook Parkway,
Suite 100, Rockville, Maryland 20852

NOTIFICATION PROCEDURES:

Requests in person: A subject individual who appears in person at a specific location seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, Grant Identification Number, Social Security Number or other identifying numbers, dates of enrollment in the IHS scholarship or loan repayment program, and at least one piece of tangible identification such as driver's license, passport, or voter registration card. Identification papers with current photographs are preferred, but not required. If a subject individual has no identification, but is personally known to an agency employee, such employee shall make a written record verifying the subject individual's identity. Where the subject individual has no identification papers, the responsible agency official shall require that the subject individual certify in writing that he/she is the individual who he/she claims to be and the he/she understands that the knowing and willful request or acquisition of a record concerning an individual under false pretenses is a criminal offense subject to a \$5,000 fine.

Requests by mail: A written request must contain the name and address of the requestor, Social Security Number or signature which is either notarized to verify his/her identity or includes a written certification that the requestor is the person he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records pertaining to an individual under false pretenses is a criminal offense subject to a \$5,000 fine. In addition, the following information is needed: Dates of enrollment in the IHS scholarship program or IHS loan repayment program, and current enrollment status, such as pending application approval, deferment or service obligation, or shortage area placement.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored; the caller is asked to submit his/her request in writing. In addition, the requestor is informed that provision of his/her Social Security Number may assist in the verification of the identity of the person as well as the identification of his/her record. The requestor is informed that provision of his/her Social Security Number is voluntary and that the individual will not be refused access to his/her record for failure to disclose his/her Social Security Number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also provide a reasonable description of the record being sought. Requestors may also request an accounting of disclosures that have been made of their record, if any.

CONTESTING RECORD PROCEDURES:

Contact the Policy Coordinating Official, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information will be collected from the following sources: Educational institutions attended; internship and/or residency training progress reports; IHS site selection questionnaires; IHS Scholarship or Loan Repayment applicants; financial institutions from which these applicants have obtained educational loans; Bureau of Health Professions Area Resources File tapes; health professional associations; HHS contractors/subcontractors; consumer reporting agencies/credit bureaus; lending institutions; PHS Commissioned Personnel Operations Division and U.S. Office of Personnel Management personnel records; other Federal agencies, including but not limited to the Department of Treasury, the Internal Revenue Service, and the U.S. Postal Service; State or local government medical licensing boards and/or the Federation of State Medical Boards or a similar nongovernment entity; and third parties who provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 92-12159 Filed 5-26-92; 8:45 am]

BILLING CODE 4100-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-010-02-4320-02]

Craig Colorado Advisory Council Meeting

Time and Date: 10 a.m., June 17, 1992.

Place: BLM—White River Resource Area Office, 73544 Highway 64, Meeker, Colorado 81641.

Status: Open to public; interested persons may make oral statements at 10:30 a.m. Summary minutes of the meeting will be maintained in the Craig District Office.

Matters to be Considered:

1. BLM 2015.
2. White River Resource Management Plan (RMP).
3. Field trip to see RMP issue areas.

Contact Person for More Information: Mary Pressley, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: May 11, 1992.

Robert W. Schneider,
Associate District Manager.

[FR Doc. 92-12226 Filed 5-26-92; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

[PRT-767798]

Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit and Habitat Conservation Plan for Timber Harvest, Simpson Timber Co.; Del Norte, Humboldt, Mendocino, and Trinity Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a Draft Environmental Assessment (EA) and an Application for an Incidental Take Permit and Habitat Conservation Plan (HCP) for Timber Harvest by the Simpson Timber Company in Del Norte, Humboldt, Mendocino, and Trinity Counties, California, is available for public review. Comments and suggestions are requested. This notice is provided pursuant to section 10(c) of the Endangered Species Act, as amended (Act), and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and Environmental Assessment should be received on or before 30 days from publication.

ADDRESSES: Persons wishing to review the application and HCP or EA may obtain a copy by contacting Mr. Phil Detrich, Sacramento Field Office. Documents will be available by written request for public inspection, by appointment, during business hours at the Sacramento Field Office (7:30 to 4:00). Written data or comments concerning the application or the draft EA should be submitted to Mr. Wayne White, Field Supervisor, Sacramento Field Office. Please reference permit number PRT-797798 in your comments. Sacramento Field Office, U.S. Fish and Wildlife Service, room E-1803, 2800 Cottage Way, Sacramento, CA 95825 (916/978-4866 or FTS 460-4866).

FOR FURTHER INFORMATION CONTACT: Mr. Phil Detrich at the above Sacramento Field Office.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act prohibits the "taking" of endangered species and the same prohibitions apply to threatened species through implementing regulations. However, the Service, under limited circumstances may issue permits to take threatened wildlife species incidental to, and not the purpose of otherwise lawful activities. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22.

The Simpson Timber Company, Redwood Division, has applied for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act. The permit would authorize the incidental take of the federally listed threatened northern spotted owl (*Strix occidentalis caurina*) and/or its habitat during timber harvest operations on the firm's 380,000-acre properties in Del Norte, Humboldt, Mendocino, and Trinity Counties, California. Over 100 northern spotted owl nest sites or activity centers are known or suspected on the property, which is almost entirely forested with second-growth redwood (*Sequoia sempervirens*) and Douglas-fir (*Pseudotsuga menziesii*).

Projected growth and harvest rates indicate the more habitat of the age class primarily used by spotted owls will exist on the property at the end of the 30-year permit period than currently is present. Nest sites of approximately three owl pairs would be annually displaced by timber harvest, and the foraging areas of several more pairs also would be altered annually. Nest sites would be protected during the breeding

season, and no direct killing or injuring of owls is anticipated. Simpson's owl monitoring programs, in which over 250 adult owls and over 100 juveniles already have been banded, would be continued, as well as analyses of timber stands used by owls, other alternatives, including operating without taking and waiting for completion of the California Board of Forestry's Northern Spotted Owl Habitat Conservation Plan, were rejected as economically infeasible.

Author

The primary author of this notice is Mr. Phil Detrich at the above Sacramento Field Office address.

Authority: The authority for this action is the Endangered Species Act [16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted]

Dated: May 7, 1992.

Marvin L. Plenert,
Regional Director.

[FR Doc. 92-12241 Filed 5-26-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service (MMS)

Outer Continental Shelf (OCS) Advisory Board Scientific Committee (SC); Plenary Session Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, 5 U.S.C., appendix I, and the Office of Management and Budget Circular A-63, Revised.

The ACS Advisory Board SC will meet Wednesday, June 24, and Thursday, June 25, 1992, at the Mandalay, 2101 Mandalay Beach Road, Oxnard, California, 93035, telephone (805) 984-2500.

Sessions will run from 8 a.m. to 5 p.m. The SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific value of the MMS' OCS Environmental Studies Program.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary sessions.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Treichel, Branch of Environmental Studies, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070.

Other inquiries concerning the SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary and Chief, Environmental Studies Branch, Environmental Policy and Programs

Division, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone on (703) 787-1717.

Dated: May 15, 1992.

Thomas Gernhofer,
Associate Director of Offshore Minerals
Management.

[FR Doc. 92-12269 Filed 5-26-92; 8:45am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-562
(Preliminary)]

Crushed Limestone From Mexico; Preliminary Antidumping Investigation

AGENCY: United States International Trade
Commission.

ACTION: Institution and scheduling of
preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 721-TA-562 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of crushed limestone,¹ provided for in subheading 2517.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by July 6, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: May 20, 1992.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

¹ For purposes of this investigation, crushed limestone consists of limestone base, whether or not stabilized; limestone aggregate, including coarse aggregate and fine aggregate (limestone sand); and any other forms of crushed limestone.

Background

This investigation is being instructed in response to a petition filed on May 20, 1992, by Texas Crushed Stone Company, Georgetown, TX, Parker Lafarge, Inc., Houston, TX, and Gulf Coast Limestone, Inc., Seabrook, TX.

Participation in the Investigation and Public Service List

Persons (other than petitioner) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 10, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202-295-3182) not later than June 8, 1992, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation of the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may

submit to the Commission on or before June 16, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: May 21, 1992.

Kenneth R. Mason,
Secretary.

[FR Doc. 92-12421 Filed 5-26-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32043]

Chicago and Northwestern Transportation Co. and Wisconsin Central, Ltd.; Joint Relocation Project Exemption

Chicago and Northwestern Transportation Company (CNW) and Wisconsin Central, Ltd. (WCL) on April 27, 1992, jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(5) to relocate CNW's trackage rights over WCL's between Gordon and Ladysmith, WI, from WCL's line via Cameron, WI (part of the Cameron Line) to WCL's direct line between Gordon and Ladysmith, WI (part of the Ladysmith Line). The trackage rights to be relocated are situated entirely within Wisconsin.¹

¹ The relocation is the final step in a series of related transactions authorized in Finance Docket No. 31882, Chicago and North Western Transportation Company—Trackage Rights Exemption—Wisconsin Central, Ltd. (not printed), served and published in the Federal Register June 6, 1991, a Notice of Exemption by which CNW was authorized to acquire overhead trackage rights over approximately 141 miles of WCL's line between

Continued

As part of this joint relocation project, WCL plans to construct a connection approximately 2,367 feet long joining the Cameron and Ladysmith lines at Gordon, where the two lines cross. Following this construction, WCL will relocate its own overhead operations between Ladysmith and Superior, WI (which is on the Cameron Line) via the relocated route. Also as part of the relocation project, CNW plans to construct a connection approximately 2,900 feet long at Springbrook, WI, where CNW's Trego-Hayward branch crosses the Ladysmith Line. This construction will enable CNW to reach its Trego-Hayward branch via the relocated trackage rights between Gordon and Ladysmith. After full consummation CNW plans to discontinue its trackage rights between Gordon and Ladysmith via Cameron.

This joint relocation project falls within the class of exempt transactions identified at 49 CFR 1180.2(d)(5), since CNW and WCL indicate that it will not disrupt service to shippers.² Discontinuance of CNW's trackage rights between Gordon and Ladysmith via Cameron and the construction of the two connecting tracks are involved as part of the line relocation project. The Commission, however, will assume jurisdiction over the discontinuance and/or construction components of the relocation project only where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. See, generally, *Denver & R.G.W.R. Co.—Jt. Proj.—Relocation over BN, 4 I.C.C.2d 95 (1987)*. Under these standards, CNW's discontinuance and construction here are not subject to the Commission's jurisdiction.³

WCL milepost 96.3 at Cameron and WCL milepost 48.45 at Wisconsin Rapids, WI, via Ladysmith and Junction City, WI; Finance Docket No. 31880, Wisconsin Central Ltd.—Purchase—Chicago and North Western Transportation Company Line between South Itasca and Cameron, WI (not printed), served November 5, 1991, a decision that authorized WCL to acquire the Cameron line between South Itasca and Cameron, WI from CNW with CNW retaining overhead trackage rights between those points; and Finance Docket No. 31922, Wisconsin Central, Ltd.—Purchase Exemption—Soo Line Railroad Company between Superior and Ladysmith, WI (not printed), served November 5, 1991, a decision that authorized WCL to acquire the Ladysmith Line between Ladysmith and Superior, WI from Soo Line Railroad Company. CNW and WCL state that the relocation will be partially consummated upon closing of the sale authorized in Finance Docket No. 31880, and upon completion of the connecting track at Gordon.

² Exempt joint relocation projects embrace exempt trackage rights transactions. See *D.T.&I.R.—Trackage Rights, 363 I.C.C. 878 (1981)*.

³ CNW had stated in its exemption notice that it would "file appropriate petitions to discontinue its

As a condition to the use of this exemption, any employee affected by the relocation and trackage rights agreement covering the proposed routing will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980)*.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Counsel for WCL, William C. Sippel, Oppenheimer Wolff & Donnelly, 233 N. Michigan Avenue, suite 2400, Chicago, IL 60601; and Counsel for CNW, Stuart F. Gassner, Chicago, and North Western Transportation Company, 165 North Canal Street, Chicago, IL 60606.

Dated: May 18, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-12287 Filed 5-26-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 92-22]

Lawrence R. Alexander, M.D.; Revocation of Registration

On December 13, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lawrence R. Alexander, M.D. (Respondent) of Philadelphia, Pennsylvania, proposing to revoke his DEA Certificate of Registration, BA1423792, and to deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent had been convicted of felonies related to controlled substances under the laws of the Commonwealth of Pennsylvania and that his state license to practice medicine had been suspended and therefore he is no longer authorized by state law to handle controlled substances. 21 U.S.C. 824 (a)(2) and 824(a)(3).

Respondent, through counsel, responded to the Order to Show Cause and requested a hearing. The matter was docketed before Administrative

retained trackage rights between Gordon and Ladysmith Via Cameron." Given the facts presented here, such petitions are unnecessary.

Law Judge Mary Ellen Bittner. Counsel for the Government filed a motion for summary disposition on January 22, 1992, alleging that Respondent's license to practice medicine had been suspended by the Pennsylvania State Board of Medicine (Medical Board) on December 14, 1990, and further that the Medical Board submitted notification to DEA on February 6, 1991, that the suspension remained in effect. In addition, on December 4, 1991, a DEA Investigator confirmed that there had been no change in the status of Respondent's license to practice medicine in the Commonwealth of Pennsylvania. On February 6, 1992, Respondent replied to the Government's motion asserting that he had filed an appeal of his convictions with the Pennsylvania Supreme Court and as a result, any disposition of this matter would be premature. Respondent did not deny that his state medical license has been suspended since December 1990.

On March 13, 1992, Judge Bittner issued her opinion and recommended decision which granted the Government's motion for summary disposition and recommended that Respondent's DEA Certificate of Registration be revoked. No exceptions were filed, and on April 21, 1992, the administration law judge transmitted the record of these proceedings to the Administrator.

The Administrator has considered the record in its entirety and, under 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

Judge Bittner found that Respondent is not licensed to practice medicine or otherwise prescribe or dispense controlled substances in the Commonwealth of Pennsylvania, the jurisdiction in which he is registered with DEA. Judge Bittner also concluded that because of his lack of state authorization to handle controlled substances, Respondent is not entitled to have a DEA Certificate of Registration. 21 U.S.C. 823(f). Accordingly, the administrative law judge concluded that Respondent's Certificate of Registration should be revoked.

The DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state to handle controlled substances. This lack of a state license requires that DEA revoke the registrant's DEA Certificate of Registration. See *Bobby Watts, M.D., Docket No. 87-71, 53 FR 11919 (1988)*;

Wingfield Drugs, Inc., Docket No. 87-13, 52 FR 27070 (1987); and *Robert F. Witek, D.D.S.*, Docket No. 87-54, 52 FR 47770 (1987).

The Administrator adopts the decision and opinion of the administrative law judge in its entirety.

Based on the foregoing, the Administrator concludes that Respondent's registration must be revoked. 21 U.S.C. 824(a)(3). Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BA1423792, previously issued to Lawrence R. Alexander, M.D., be, and it hereby is, revoked, and that any pending applications for registration, be, and they hereby are, denied. This order is effective May 27, 1992.

Dated: May 19, 1992.

Robert C. Bonner,

Administrator of the Drug Enforcement.

[FR Doc. 92-12231 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (92-34)]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Life Sciences Subcommittee.

DATES: June 2, 1992, 8:30 a.m. to 5 p.m.; and June 3, 1992, 8:30 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 226, 600 Independence Avenue, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald J. White, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2128).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress

on, and accomplishments of NASA's Space Science and Applications programs. The Life Sciences Subcommittee provides advice to the Life Sciences Division concerning all of its programs in the space life sciences. The Subcommittee will meet to discuss the status of OSSA and Life sciences, international activities, exobiology presentations, Biosatellite, and Space Station science activities. The Subcommittee is chaired by Dr. Francis J. Haddy and is composed of 23 members. The meeting will be closed to the public on Tuesday, June 2, 1992, from 8:45 a.m. to 10:45 a.m. to allow for a discussion on qualifications of individuals being considered for membership to the Subcommittee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

TYPE OF MEETING: Open—except for a closed session as noted in the agenda below.

Agenda

Tuesday, June 2

- 8:30 a.m.—Introduction and Chairman's Remarks.
- 8:45 a.m.—Closed Session.
- 10:45 a.m.—Life Sciences Status.
- 1:15 p.m.—Report on Other Advisory Committees.
- 1:45 p.m.—Office of Space Science and Applications Status.
- 3 p.m.—Discussion of the Role, Scope and Function of Advisory Committees.
- 4:30 p.m.—Report on International Activities.
- 5 p.m.—Adjourn.

Wednesday, June 3

- 8:30 a.m.—Exobiology Presentations: Planetary Protection, Search for Extraterrestrial Intelligence.
- 9:30 a.m.—Discussion of Biosatellite.
- 10:30 a.m.—Status of Space Station Science Activities.
- 11:45 a.m.—Subcommittee Strategy and Actions.
- 12:30 a.m.—Adjourn.

Dated: May 19, 1992.

John W. Gaff,

Director, Management Operations Division, National Aeronautics and Space Administration.

[FR Doc. 92-12291 Filed 5-26-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Effective Date: This collection of information will become effective October 1, 1992, subject to approval by the Office of Management and Budget. Public comments should be submitted to: Herman G. Fleming, Reports Clearance Officer, room 208, National Science Foundation, 1800 G Street NW., Washington, DC 20550, and to: Office of Management and Budget, Paperwork Reduction Project 3145-0058, Washington, DC 20503, no later than 30 days from the date of publication of this Draft Important Notice. All comments will be available for public inspection in Room 208, at the above NSF address between the hours of 9 am and 4 pm.

Title: Draft Important Notice to Presidents of Universities And Colleges And Heads of Other National Science Foundation Grantee Organizations.

Affected Public: Any institution/individual submitting a proposal to the National Science Foundation.

Respondents/Burden Hours: 37,000 respondents. NSF estimates that 120 hours are required to submit a proposal. This information collection will not affect the total amount of time required to submit a proposal. While additional information is being requested, some current collection is being deleted.

Draft Important Notice to Presidents of Universities and Colleges and Heads of Other National Science Foundation Grantee Organizations

Subject: NSF Revised Proposal Guidelines and Forms NSF is revising the Grants for Research and Education in Science and Engineering (GRESE) brochure and related proposal and grant forms, effective October 1, 1992. Major changes will be as follows:

(1) Increased emphasis on the importance of conformance to the proposal preparation guidelines provided in the GRESE. Proposals not conforming to the guidelines will be returned to the sender unless prior approval to depart from them has been obtained from the appropriate NSF Assistant Director, or Division Director if approval authority has been delegated. In particular, the fifteen-page limit on the text of the proposal Project Descriptions which comprises the main body of the proposal applies unless alternative or additional guidelines are

provided in a specific program announcement or solicitation. The Project Descriptions includes results of prior NSF support.

(2) Encouragement of submission of longer duration grant proposals. The GRESE now indicates a "norm" of three years for grants award durations.

(3) A requirement that biographical sketches be limited to 2 pages per investigator.

(4) Revised provisions on "group" proposals and equipment proposals.

(5) Clarification of the significance of the signature requirements in various grant-related forms for Principal Investigators, Co-Principal Investigators and Authorized Organizational Representatives.

(6) NSF has revised the proposal cover sheet and the final report Form 98A.

(7) NSF is now requiring a new annual progress report form for all ongoing NSF grants, which includes certification language. Certification language also has been added to the quarterly Federal Cash Transaction Report.

(8) Clarifying NSF Important Notice 107, Revision 1, that the human resources statement is applicable to academic institutions only.

(9) Various editorial and updating changes, consistent with changes in NSF programs and organization.

The principal thrust of these changes is to lessen the burden on proposers and reviewers by reducing proposal length and increasing the average award duration. At the same time, applicants and grantees are reminded that in signing proposals and other grant-related documents they are certifying as to the truthfulness of the statements and information submitted.

The new proposal cover sheet includes certifications to this effect on page 2 of the cover sheet, which must be completed both by the Principal Investigator(s) and by the Authorized Institutional Representative. The new Progress Report Form includes a similar certification by the Principal Investigator(s). All progress reports must include this form with the Investigators's signature on the certification at the bottom of the form. Progress reports submitted electronically must include the text of the certification, will be available on STIS. These forms (and the revised 98A and FCTR) must be used for all proposals and reports submitted on or after October 1, 1992.

A revision to GRESE reflecting these changes will be effective for proposals submitted on or after October 1, 1992. The NSF Grant Policy Manual will be revised to reflect these changes. The full

text of the GRESE Revision is available upon request. Requests, questions and comments regarding this draft Important Notice may be addressed to Herman Fleming, NSF Clearance Officer, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Dated: May 21, 1992.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 92-12293 Filed 5-28-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Earth Sciences.

Date and Time: June 22, 1992; 8:30 a.m. to 5:30 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Julian Shedlovsky, Staff Associate for Budget and Environmental Policy, National Science Foundation, room 641, Washington, DC 20550 telephone: (202) 357-9752.

Purpose of Meeting: To review and evaluate proposals and provide advice and recommendations as part of the selection process for awards.

Agenda: To review and evaluate unsolicited proposals submitted to the Academic Research Instrumentation Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-12274 Filed 5-28-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research.

Date and Time: June 24-25, 1992; 8:30 a.m. to 5 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. G. Bruce Taggart, Program Director, Materials Theory, 1800 G Street, NW., room 408, Washington, DC 20550, tel: 202/357-9787.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted for support under the Computational Approaches to Real Materials Initiative (NSF announcement 92-15).

Agenda: Review and evaluate Computational Approaches to Real Materials proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1992.

[FR Doc. 92-12273 Filed 5-26-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following four meetings:

Name: Special Emphasis Panel in Mechanical and Structural Systems.

Date and Time: June 16-17, 1992; 8:30 a.m. to 5 p.m.

Place: Room 500A-E, 1110 Vermont Ave., NW., Washington, DC 20005.

Contact Person: Dr. Ken P. Chong, Program Director, NSF, Room 1108, Washington, DC 20550. Telephone: (202) 357-9542.

Agenda: To review and evaluate QNDE, RIA/REG, and Individual Investigator Award proposals submitted to the Structural Systems and Construction Processes Program.

Date and Time: June 16-17, 1992; 8:30 a.m. to 5 p.m.

Place: Room 500B, NSF, 1110 Vermont Ave., NW., Washington, DC 20005.

Contact Person: Dr. Mehmet T. Tuncay, Program Director, NSF, Room 1108, Washington, DC 20550. Telephone: (202) 357-9542.

Agenda: To review and evaluate Mechanical and Structural Systems NSF QNDE proposals.

Date and Time: June 16-17, 1992; 8:30 a.m. to 5 p.m.

Place: Room 500E, NSF, 1110 Vermont Ave., NW., Washington, DC 20005.

Contact Person: Dr. John B. Scalzi, Program Director, NSF, room 1108, Washington, DC 20550. Telephone: (202) 357-9542.

Agenda: To review and evaluate Mechanical and Structural Systems REG, RIA, and QNDE proposals.

Date and Time: June 23-24, 1992; 8:30 a.m. to 5 p.m.

Place: Room 500D, NSF, 1110 Vermont Ave., NW., Washington, DC 20005.

Contact Person: Dr. John B. Scalzi, NSF. Telephone: (202) 357-9542.

Agenda: To review and evaluate Individual Investigator Award proposals submitted to the Large Structures and Building Systems Program.

Type of Meeting: Closed.

Purpose of Meetings: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1992.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 92-12272 Filed 5-26-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Undergraduate Science, Engineering, and Mathematics Education; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Science, Engineering, and Mathematics Education (USEME).

Date and Time: June 24, 1992; 7:30 p.m. to 9 p.m., June 25, 1992; 8 a.m. to 5 p.m., June 26, 1992; 8 a.m. to 4 p.m.

Place: Dupont Plaza Hotel, 1500 New Hampshire Ave., NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. William Haver, Program Director, USEME Division, NSF, 1800 G St., NW., rm. 1210, Washington, DC 20550. Telephone: 202/357-7051.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the UFE Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 21, 1992.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 92-12271 Filed 5-26-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 4, 1992 through May 14, 1992. The last biweekly notice was published on May 13, 1992 (57 FR 20507).

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 26, 1992 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the

petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The

final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the *Federal Register* a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

**Baltimore Gas and Electric Company,
Docket No. 50-317, Calvert Cliffs
Nuclear Power Plant, Unit No. 1, Calvert
County, Maryland**

Date of amendment request: May 1, 1992

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 4.6.2.1.b.1, 4.6.1.b.2, 4.6.2.2.b, and 4.6.3.1.d.2. The previous TS identified the specific test signal to be used when testing containment spray valves and pumps, the containment air coolers, and the containment iodine filters trains. This revision changes the specific test signal to indicate that the appropriate Engineered Safety Feature Actuation System test signal be used during the required surveillance testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated; or

The planned modifications to the start signals received by some engineered safety features equipment will maintain the loading of that equipment within the timing steps assumed by the EDG sequencer design. The EDG sequencers will continue to perform their function as described in the Updated Final Safety Analysis Report (UFSAR). The modified systems will continue to function so that they meet the assumptions of the accident analyses in Section 14 of the UFSAR. Therefore, there has been no significant increase in the probability or consequences of a previously evaluated accident.

(2) create the possibility of a new or different type of accident from any accident previously evaluated; or

The planned modifications to the start signal to selected Engineered Safety Features

Actuation System (ESFAS) components does not create the possibility of a new or different type of accident from any previously evaluated. Changing the Containment Spray Actuation Signal (CSAS) start to a Safety Injection Actuation Signal (SIAS) start will allow the containment spray pumps to start, the containment cooler fans to start in low speed, and the service water outlet valves to open during an event that does not cause a high pressure condition in containment. Operating the pumps, fans, and valves during an event that does not cause a high pressure condition in containment will add a load to the EDGs that was not considered for these events. However, this additional load is within the capacity of the EDGs because the EDG capacity is based on events where this equipment is assumed to operate.

When the planned modifications are complete, the containment spray valves will open on a CSAS instead of SIAS. Therefore, the valves will open after the pumps have started and only when containment pressure is high enough to warrant the use of containment sprays. Operating the containment spray pumps with these valves closed is accommodated by the existing recirculation lines for the pumps. The containment spray piping will be evaluated to determine if it can withstand the loads associated with opening the valve after the pump had been started and any necessary modifications performed. By reversing the signals to the containment spray pumps and valves, the system will continue to function as designed and an inadvertent spray down of containment will be avoided.

Under the planned modification, the start for the iodine removal units will be changed from Containment Isolation Signal (CIS) to SIAS. This will allow the iodine removal units to start during events which may not cause a high pressure condition in containment. Operating the iodine removal units in an event that does not cause a high pressure condition will add a load to the EDGs that was not considered for those events. This additional load is within the capacity of the EDGs because EDG capacity is determined by events where this equipment is assumed to operate.

Under the planned modifications, these systems will continue to operate in ways that have been previously analyzed. The containment cooling units and the iodine removal units could begin functioning sooner in the accident scenario than assumed by the accident analyses or could function during accidents where its function was not assumed to occur. Operation of this equipment in this manner will not have a detrimental effect on the containment structure. Both the containment cooling units and the iodine removal units are used in routine operation to maintain containment temperature within its limits during normal operation and to speed the cleanup of the containment atmosphere during a shutdown.

Therefore, the proposed changes to the Technical Specifications do not create the possibility of a new or different type of accident previously evaluated.

(3) involve a significant reduction in a margin of safety.

The margin of safety is not reduced by the planned modifications to the start signals of

the engineered safety features described above. The functions of each system continue to meet the accident assumptions stated in UFSAR Section 14. The planned modifications will ensure that the EDGs continue to perform their function as described in the UFSAR. Thus, all the accident analyses will remain valid and the proposed changes to the Technical Specifications do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Robert A. Capra

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: January 28, 1992

Description of amendment request: The proposed amendment would revise the requirements for visual inspections of snubbers including inspections intervals and acceptance criteria in accordance with staff guidance published in Generic Letter (GL) 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," dated December 11, 1990.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This amendment:

(1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated. Snubbers are installed to maintain the structural integrity of systems and components which mitigate the consequences of previously analyzed accidents. This amendment does not alter the design, function, or operation of the snubbers or the systems in which they are installed. This amendment does not change the snubber functional testing requirements. As stated in Reference 2 [GL 90-09], the proposed changes were developed by the NRC staff and maintain the same level of snubber reliability as the existing visual snubber inspection schedule. Therefore, the reliability of the snubbers is not reduced.

Providing consistent nomenclature and clarifying requirements in the proposed TS 3/4.7.5 meets the objectives and intent of

Reference 2 [GL 90-09]. Changes to TS Bases 3/4.7.5 are consistent with the guidance in Reference 2 [GL 90-09]. A typographical error is also corrected in TS Bases 3/4.7.5. These changes are, therefore, considered to be editorial in nature.

(2) Does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the configuration of the facility, plant operations, or the accident analysis assumptions. No new mode of failure is being created because this change does not degrade the design, operation, or maintenance of the plant. As stated in Reference 2 [GL 90-09], the proposed TS change maintains the same level of snubber reliability as the existing snubber visual inspection interval. The editorial changes in TS 3/4.7.5 meet the objectives and intent of Reference 2 [GL 90-09]. The changes to TS Bases 3/4.7.5 are consistent the guidance in Reference 2 [GL 90-09]. The correction of the typographical error in TS Bases 3/4.7.5 is an editorial change.

(3) Does not involve a significant reduction in a margin of safety. The proposed amendment incorporates the surveillance requirements for the snubber visual inspection interval in accordance with the guidance in Reference 2 [GL 90-09]. As stated in Reference 2 [GL 90-09], the proposed snubber visual inspection interval maintains the same confidence level as the existing snubber visual inspection interval. The editorial changes in TS 3/4.7.5 meet the objectives and intent of Reference 2 [GL 90-09]. The changes to TS Bases 3/4.7.5 are consistent with the guidance in Reference 2 [GL 90-09]. The correction of the typographical error in TS Bases 3/4.7.5 is an editorial change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: L. B. Marsh.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: January 30, 1992

Description of amendment request: The proposed amendment removes two valves from the listing of Reactor Coolant System Pressure Isolation Valves in Technical Specification (TS) Tables 3.4.3.2-1 and 3.4.3.2-2. The Reactor Pressure Vessel (RPV) Head Spray line was permanently disconnected from the Reactor Coolant

System (RCS) by a design change. The valves continue to perform a primary containment isolation function and as such will remain in TS Table 3.6.3-1, "Primary Containment Isolation Valves."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The change eliminates two valves from the TS listing of RCS pressure isolation valves because the valves no longer perform a RCS pressure isolation function. Eliminating requirements associated solely with this function has no effect on either the probability or consequences of any previously evaluated accidents.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change eliminates testing and action requirements associated with the RCS pressure isolation function, which is no longer performed by these two valves. In so doing, the change creates no new operating modes or accident initiating mechanisms.

3) Involve a significant reduction in a margin of safety. The elimination of these unnecessary requirements does not impact any safety margins. The leakage through these valves has no meaning in regards to RCS leakage and the associated action requirements for RCS leakage are similarly not meaningful.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: L. B. Marsh.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: May 14, 1992

Description of amendment request: Technical Specification Surveillance Requirement 4.8.2.1.1.d is modified to delete the phrase "during shutdown". This will allow the service test to be conducted during power operation in the future. Also, Bases Section 3/4.8.2 is modified to reflect the change to the above surveillance requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

First Standard

The amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Performing a service test of the vital batteries while at power will not result in the initiation of any accident scenarios, therefore there will be no effect on the probability of any accident. The design of the DC portion of Catawba's vital I&C power system allows the battery service test to be conducted at power while maintaining both an operable battery and battery charger to supply the affected bus. Therefore, all vital buses will remain battery backed at all times. (Pending a final resolution to the EDSFI finding concerning operability of a cross-tied configuration where both buses are being fed from a single small battery, the service test and all associated activities will be conducted within 72 hours as required by action statement e of Limiting Condition for Operation 3.8.2.1) The additional small amount of battery unavailability incurred as a result of conducting the service test at power (1.5 to 2.5 hours) will have no significant impact on the consequences of any accident previously evaluated.

Second Standard

The amendment would not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

No accident causal mechanisms are introduced by conducting the service test of the vital batteries during power operation. No equipment will be operated in a new or deleterious manner, therefore there will be no effect on accident causal mechanisms.

Third Standard

The amendment would not involve a significant reduction in a margin of safety.

As demonstrated previously, the affected bus will remain battery backed at all times while conducting the service test; the increase in battery unavailability as a result of performing the test at power will be extremely small (1.5 to 2.5 hours); and all battery out-of-service time will remain within that allowed by existing technical specifications (10 days or 72 hours pending resolution of the above-described EDSFI finding). Therefore, there will be no significant effect on any safety margin.

Based on the above and the supporting technical justification, Duke Power Company has concluded that there is no significant hazard consideration involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: April 30, 1992

Description of amendment request: This amendment revises the Grand Gulf Nuclear Station Technical Specifications (TS) by adding new surveillance requirements for the Reactor Protection System and Control Rod Block Instrumentation and by making clarifying editorial changes to the Source Range Monitor (SRM) TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from these changes.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes do not involve a physical change or addition to any plant component or system which could cause the probability of an accident to increase. The proposed changes do not result in any change to the plant design or its operating modes. Therefore, these proposed changes cannot increase the probability of any accident previously evaluated.

The proposed addition of surveillance requirement 4.3.1.4 and 4.3.6.2, the new footnote for Specification 4.3.7.6.b.2, together with the new footnotes clarifying the specified conditions for operability/surveillance testing, provide for the performance of the associated IRM [Intermediate Range Monitor] and SRM surveillances during plant shutdowns following operation in Operational Condition 1. The proposed changes provide a formal means of avoiding a violation of TS 4.0.4 and provide adequate time to avoid the possibility of unnecessary plant scrams, challenges to safety systems, and returning to criticality during a controlled shutdown. Grand Gulf Nuclear Station's Updated Final Safety Analysis Report (UFSAR) Chapter 15 analyses do not rely on the IRM or SRM scram or rod block functions to ensure safety in any accident/transient analysis. Adequate scram protection and neutron monitoring capability are provided by the Average Power Range Monitors (APRM) during the period needed to perform these surveillances.

Although UFSAR section 7.1.2.1.4.2 states the IRM system is used to prevent fuel damage resulting from anticipated or abnormal operational transients, no credit is taken for these functions in the accident analysis. Therefore, failure of these functions could not increase the consequences of any accident previously evaluated.

In addition, Generic Letter 87-09 asserted that the assumption that systems and components are inoperable because the surveillance requirement has not been performed is overly conservative. The proposed TS 4.0.4 exceptions provide a method of testing the instrumentation per TS 4.0.3 in order to confirm operability.

The proposed addition of the word "OPERATIONAL" is an editorial change that adds consistency with TS 1.28. The proposed deletion of the 24-hour clause from Specification 4.3.7.6.b, Channel Functional Test requirement for the source range monitors, eliminates the possible confusion caused by the current wording without reducing the effectiveness of these surveillances. The TS, when revised as proposed, will continue to require these Channel Functional Test [sic] be performed within seven days prior [to] moving the reactor mode switch from the Shutdown position. These proposed changes do not alter technical requirements of these surveillances.

Based on the above, these proposed changes cannot increase the probability or consequences of an accident previously evaluated.

2. These changes would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not involve a change in the design of any plant system or component, any changes to setpoints, nor do they involve a change in the operation or involve any new modes of operation or testing methods of any plant system or component. As a result, no new failure modes are introduced. Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously analyzed.

3. These changes would not involve a significant reduction in the margin of safety.

The proposed changes provide adequate assurance that each of the applicable safety functions (scram protection, control rod block, neutron monitoring) are [sic] capable of being affected when required. The proposed changes do not modify the actuation setpoints, function or the operation of any plant system; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: April 21, 1992

Description of amendment request: The proposed amendments would revise Technical Specifications Section 3/4.11.2.5, Explosive Gas Mixture, to correct an administrative error that references a continuous hydrogen monitor that is not part of the plant design. In addition, a new surveillance requirement would be added that requires the hydrogen concentration to be determined by gas partitioner grab sample at least once per 24 hours when the oxygen concentration, as determined by the continuous oxygen monitor, exceeds 2% by volume.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment[s] [do] not involve a significant increase in the probability or consequences of an accident previously evaluated because [these amendments do] not change the St. Lucie design as previously evaluated by the NRC. The NRC has previously evaluated the instrumentation used to ensure an explosive gas mixture will not occur at St. Lucie during the Operating License review of St. Lucie Unit 2 and during the review of Amendment 59 for St. Lucie Unit 1.

(2) Use of the modified Technical Specification would not create the possibility of a new or different kind of accident from any previously evaluated.

The use of this modified Technical Specification cannot create the possibility of a new or different kind of accident from any previously evaluated since the physical design of the facility is unchanged. No new failure mode is introduced due to the change in the hydrogen monitoring requirements.

(3) Use of the modified Technical Specification would not involve a significant reduction in a margin of safety.

The operation and physical facility are unchanged by [these] Technical Specification proposed amendment[s].

Based on the above, we have determined that the proposed amendment[s] [do] not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the

probability of a new or different kind of accident from any previously evaluated, or (3) involve a significant reduction in a margin of safety; and therefore [do] not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 16, 1988

Description of amendment request: The amendment revised the Technical Specifications to clarify the operability requirements of the primary containment oxygen analyzer based on installation of redundant channels in accordance with Regulatory Guide 1.97, and incorporates administrative changes associated with the newly installed redundant oxygen analyzer system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

a. This proposed change replaces the single I.D. number for the O₂ analyzer with I.D. Numbers for both channels of the new system. The new I.D. numbers indicate that there are redundant channels supplied by a separate division of power. The new analyzer system will be installed in accordance with commitments made by the District to comply with the guidance of Regulatory Guide 1.97. The monitors do not control the logic or provide inputs to any reactor protection or engineered safety features. These instruments are for the assessment of containment integrity during operation and following design basis accidents. The oxygen analyzer is not required to shut down the plant and since it is redundant and qualified for post-accident environments, it is more reliable than the existing system. Therefore, the change to add new I.D. numbers does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

b. This proposed change relocates the requirements for the primary containment oxygen analyzer from the table for instrumentation that monitors drywell leak detection to the table for primary containment surveillance instrumentation. The new requirements reflect the addition of a separate redundant channel to the instrument and provide additional restrictions to instrument operability. The function or operation of the instrument is not affected nor is its interface with other plant systems. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility for a new or different kind of accident from any accident previously evaluated?

a. The replacement of a single analyzer with redundant analyzers and changing the I.D. numbers will not create the possibility for a new or different kind of accident. The change is in compliance with NRC guidance to provide redundant monitoring capability and meets the specifications recommended in Regulatory Guide 1.97. The monitor is not required for safe shutdown of the plant.

b. The relocation of the O₂ analyzer requirements to a different section of Technical Specifications will not create the possibility of any new or different kind of accident. The limiting conditions for operation and surveillance requirements remain consistent with previous requirements and have been modified to reflect the addition of the redundant channel. The change will not allow any new mode of plant operation.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

a. The change to the O₂ analyzer I.D. number does not affect any margin of safety. The I.D. Numbers are for tracking of individual components for maintenance and surveillance purposes. The new I.D. numbers reflect the installation of a new, redundant analyzer system and fulfills a previous District Regulatory Guide 1.97 commitment.

b. The relocation of the O₂ analyzer requirements to a different section of Technical Specifications will not affect the availability of oxygen concentration monitoring in the Control Room to assess containment performance during normal and accident conditions. The O₂ analyzer provides no signal to the Reactor Protective System or any Engineered Safety Feature and has no impact on any margin of safety. The proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602-0499

NRC Project Director: John T. Larkins

**Niagara Mohawk Power Corporation,
Docket No. 50-220, Nine Mile Point
Nuclear Station Unit No. 1, Oswego
County, New York**

Date of amendment request: April 24, 1992

Description of amendment request: The proposed amendment would revise Technical Specification 3.4.3/4.4.3 (Access Control) to: (a) define the operating conditions under which the specification applies, (b) include an allowable outage time for continued plant operation while restoration of secondary integrity is underway, (c) provide action statements (corrective action instructions) associated with the loss of secondary containment due to access control, and (d) provide periodic surveillance requirements for access doors other than the core spray and containment spray pump compartments.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the Technical Specification [TS] 3.4.3 LCO [Limiting Condition for Operation] and its applicability, implement present provisions and STS [Standard Technical Specifications] guidelines for maintenance of secondary containment integrity by requiring operability during the power operating condition, during core alterations, and when irradiated fuel or the irradiated fuel cask is being handled in the reactor building.

The proposed actions are based on STS guidelines and implement the present provisions regarding action to be taken when secondary containment integrity has been lost. This is illustrated by existing NMP1 TS 3.4.1, "Leakage Rate", which currently allows 4 hours of continued plant operation during secondary containment system inoperability. If building integrity cannot be restored within the 4 hour period, existing TS 3.4.1 directs the plant be placed in an operating condition where secondary containment integrity is not required, i.e., cold shutdown. As indicated in NRC's Safety Evaluation supporting NMP1 Technical Specification Amendment No. 38, dated 12/12/80, "Continued plant operation for 4 hours is based on the very small likelihood of an accident occurring during such a brief interval."

The proposed augmentation of existing surveillance requirements by the addition of

STS based surveillances requiring periodic confirmation that at least one door in each of the double-doored accesses to the secondary containment is closed and at least one door or closeup of the railroad bay is closed, provides additional assurance of secondary containment system integrity.

Since the aspect of secondary containment integrity affected by reactor building access control are being revised in this proposed amendment to agree with the actions required by "Standard Technical Specifications for General Electric Boiling Water Reactors" (NUREG-0123, Rev. 3) upon loss of secondary containment integrity, and since these revisions remain within the limitations of existing NMP1 allowable outage times for the inoperability of secondary containment integrity, the proposed changes assure retention of the present level of secondary containment system operability, and therefore do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to NMP1 Technical Specification sections 3.4.3 and 4.4.3 are based on present provisions and on STS guidelines. These proposed changes have been reviewed for acceptability at NMP1 considering similarity of system design versus the STS. No new conditions of operation are introduced by the proposed changes, considering the acceptable operational conditions in present specification and the STS. Augmentation of the existing Surveillance Requirements by incorporation of additional STS based surveillances, provides additional assurance of secondary containment system integrity. The proposed changes to the LCO actions are based on present provisions and on STS guidelines.

Since the proposed changes maintain at least the present level of system operability, while adding provisions from STS, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed changes are intended to improve the clarity and understanding of technical specification requirements while maintaining acceptable levels of safe operation. Since the proposed changes are based on present provisions and applicable STS guidelines associated with secondary containment integrity, and since existing allowances on secondary containment integrity operability are maintained, the proposed changes do not involve a significant reduction in a margin of safety.

Therefore, based on the above evaluation, Niagara Mohawk has concluded that these changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: April 10, 1992

Description of amendment request: The licensee requests an amendment to Appendix B, Environmental Technical Specifications Part II, to revise Section 2.7 (Radiological Environmental Monitoring Program) and Section 3.7 (Radiological Environmental Monitoring Program Surveillance Requirements). These sections would be revised to specify lower limits of detection (LLD) and reporting requirements for iodine-131 (I-131) in environmental samples of non-drinking water. In addition, the amendment would correct an administrative error in Section 3.7 and Tables 2.7-2 and 3.7-1 would be reformatted for consistency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve an increase in the probability of a previously-analyzed accident because the changes will not affect the way the plant is operated. The changes clarify detection and reporting requirements for I-131 in non-drinking water samples. These changes make the detection and reporting requirements consistent with NRC criteria.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed license amendment does not create the possibility of a new or different

kind of accident from any accident previously evaluated because the changes will not affect the way the plant is operated. The changes only clarify detection and reporting requirements for I-131 in non-drinking water samples.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in a margin of safety. The changes clarify detection and reporting levels for I-131 in non-drinking water samples. These changes reflect current NRC criteria for I-131 detection and reporting requirements in non-drinking water samples.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. The NRC staff also notes that the editorial changes proposed are similar to example (i) of the Commission's Examples of Amendments That Are Considered Not Likely to Involve Significant Hazards Consideration, published in the Federal Register on March 6, 1986 (51 FR 7744) in that these proposed changes would be purely administrative changes and, therefore, do not involve a significant hazards consideration. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: April 6, 1992

Description of amendment request:

The proposed amendment would increase the inservice inspection interval for steam generator tube inspections from 24 months to 28 months. The 4-month extension would allow the plant to operate continuously through the end of 1992. The licensee plans to permanently shutdown the plant before the end of 1992.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the

probability or consequences of an accident previously evaluated?

Response: No

The proposed change will extend the steam generator inservice inspection interval from 24 to 28 calendar months. This is not expected to increase the potential for steam generator tube failure, or the probability of an accident previously evaluated. The results of the latest scheduled inspection (September 1990) show that any progression of identified degradation mechanisms that could reduce the tube wall thickness will be limited during a 28 month inspection interval. Evaluation of the results of the unscheduled inspection (April 1991) concluded that the defects identified were not a safety concern.

Under the reduced temperature program, SONGS 1 has been operating with a reduced steam generator inlet temperature since 1981. In addition to limiting the unit's power output, the lower temperature has reduced the tube corrosion rates, which in turn has reduced the probability of tube degradation. The effect of the reduced temperature program on tube degradation has been demonstrated by the results of recent inspection.

For these reasons, an extension to steam generator inspection interval by 4 months will not result in an increased potential for tube failure. The existing design and analysis criteria for plugging will remain valid. The probability of accidents previously evaluated will not be impacted. The consequences of accidents previously evaluated will remain bounded by the existing safety analyses. Therefore, operation of SONGS 1 in accordance with the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The potential for steam generator tube failure will not increase due to the proposed extension to the inspection interval, and the tubes will remain within the existing design and analysis criteria for plugging. This is supported by the following: (1) progression of tube degradation mechanisms in the past has been limited; and (2) tube corrosion rates will remain low due to operation on a reduced temperature program.

The proposed 4-month extension to the inspection interval is not expected to result in any significant additional deterioration of the steam generator tubes. The extension will not create the possibility of a new hazard to the integrity of the steam generator tubing. Nor will it create any new inter-relationships with other parts of the steam generator or the reactor coolant system. Consequently, the proposed change is bounded by the existing criteria and safety analyses. Therefore, operation of SONGS 1 in accordance with this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change

involve a significant reduction in margin of safety?

Response: No

The Technical Specifications allow steam generator operation for up to 24 months between inspections. The proposed change will extend this interval to 28 months. Recent inspection results and industry data show that any tube degradation attributable to a 4 month increase in the interval would be minimal. The operational restriction (reduced temperature program) under which the plant has been operating since 1981 will ensure that the potential for tube degradation will remain low.

The proposed change will not introduce any changes to the plant design, plant configuration, or the method of plant operation. The margin of safety will not be significantly reduced by extending the inspection interval, and will remain within the existing safety analyses. Therefore, operation of SONGS 1 in accordance with this proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 1, 1992 (PCN 253)

Description of amendment request: The proposed amendment would revise Section 4.4, "Emergency Power System Periodic Testing," of the San Onofre Unit 1 Technical Specifications (TS). It increases the allowed number of emergency diesel engine start-stop cycles between crankshaft inspections from 50 to 70. It also clarifies that load transients lasting 5 seconds or less during diesel operation are not considered a violation of existing engine load restrictions, and requests editorial changes to Section 4.4 of the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

RESPONSE: No. The proposed change modifies the crankshaft inspection requirements and loading requirements applicable to the standby diesel generators. The intent of putting these requirements into the SONGS 1 Technical Specifications was to ensure the long term protection of the crankshafts against crack initiation and propagation.

Inspection Interval

The proposed inspection interval basically uses the same conservative assumptions and methodology that were used for the original crack propagation analysis. The updated analysis differs from the original analysis in that it includes factors not considered previously.

Since the updated analysis and the inspection results provide strong evidence of continued crankshaft reliability, the proposed changes will not result in an increase in the probability or consequences of an accident previously evaluated.

Load Transients

The proposed change does not alter the existing 6000 kW limit on the connected diesel loads nor does it alter the requirement to keep the monthly surveillance loads at 6000 kW (+100 kW, -500 kW). The proposed change simply clarifies that momentary transients (5 seconds or less) are acceptable and not considered a violation of the load restrictions. The NRC's generic safety evaluation of the Transamerica DeLaval diesel reliability issue ... provided this clarification for transients that are the result of changing bus loads. When load restrictions became part of the SONGS 1 operating license and subsequently part of the Technical Specifications, this clarification was not incorporated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

RESPONSE: No. The proposed changes modify the diesel surveillance and inspection requirements but do not affect the requirements relating to any other plant equipment. The failure of one or both diesels is a previously analyzed event and does not have the potential for a new or different kind of accident from the accidents previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

RESPONSE: No. The applicable margin of safety is defined by Section 3.7 of the TS, which requires that:

- Both diesels be operable in Modes 1 through 4 with total connected design load not to exceed 6000kW.
- One diesel (which is capable of automatic start) be operable in Modes 5 and 6 with total connected design load not to exceed 6000kW.

- If the above conditions are not met, take other actions specified in Section 3.7.

The existing crankshaft inspection interval of 50 start-stop cycles is overly conservative as demonstrated by the updated crack propagation analysis (see preceding discussion). By modifying this interval to 70 start-stop cycles as recommended by the updated analysis, the availability of both diesels will be improved without any significant risk of crankshaft degradation.

This will increase rather than decrease the applicable margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 1, 1992 (PCN 255)

Description of amendment request: The proposed amendment would change Technical Specifications Section 3.9, "MODERATOR TEMPERATURE COEFFICIENT (MTC)," Section 3.3.3, "MINIMUM BORON CONCENTRATION IN THE REFUELING WATER STORAGE TANK (RWST) AND SAFETY INJECTION (SI) LINES AND MINIMUM RWST WATER VOLUME," and Section 3.5.2, "CONTROL ROD INSERTION LIMITS." The proposed change would resolve an inconsistency between the stated Technical Specification basis for Moderator Temperature Coefficient (MTC) and the MTC value used in the Main Steam Line Break (MSLB) event analysis. The changes will ensure that the MTC Technical Specification bounds all accidents including the MSLB event, as stated in the basis for MTC Technical Specification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change results in the following three major changes to SONGS 1 Technical Specifications: (1) revise the most negative MTC limit in Specification 3.9 from -3.8×10^{-4} delta k/k per degree F to -2.88×10^{-4} delta k/k per degree F; (2) increase the required minimum safety injection (SI) line boron concentration limit in Specification 3.3.3 from 1,500 ppm to 3,000 ppm; and (3) increase the required minimum EOL shutdown capability in the Basis of Specification 3.5.2 from [1.9 percent delta rho to 2.05 percent delta rho]. The proposed change represents increased Technical Specification requirements for the three parameters to ensure that the MTC Technical Specification bounds all accidents.

Results of calculations using the new limits indicate that Departure from Nucleate Boiling (DNB) will not occur following an MSLB; that containment response will be acceptable; and that all applicable acceptance criteria will be met. There is no impact on the results of other existing safety analyses due to the proposed change. Consistent with the existing basis for the MTC Technical Specification, the revision to the MTC value will ensure that all accidents, including the MSLB accident, are bounded by the Technical Specification. The probability of any accident previously evaluated will not be impacted by the proposed change.

The proposed change does not reduce the plant's capability to respond to accident conditions. The revised MSLB Mass [and] Energy Release calculations indicate that the integrated energy release to containment is less than previous values. The change in shutdown margin and the SI line boron concentration will result in less adverse consequences from an MSLB accident, and no impact on other accident analyses. The consequences of other accidents previously evaluated will not be affected by the proposed change, and will remain bounded by previous safety analyses.

Therefore, operation of the facility in accordance with this proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with these proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change represents increased Technical Specification requirements for MTC, SI line minimum boron concentration, and shutdown margin. The proposed change will place more restrictive limits on these parameters, and will ensure that all accidents, including the MSLB, are bounded by the MTC Technical Specification. There is no adverse impact on the plant's systems to perform their intended safety functions. The existing design and licensing basis remain valid. The proposed change does not introduce any new factors that can create

accidents. Therefore, operation of the facility in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with the proposed changes involve a significant reduction in the margin of safety?

Response: No.

The proposed change establishes more restrictive limits for MTC, SI line minimum boron concentration, and the shutdown limit. The new limits are more conservative than the existing limits, and will ensure that all accidents, including the MSLB accident, are bounded by the Technical Specification. The proposed change will also ensure that the existing basis for the MTC Technical Specification remains valid. The existing design basis and safety analyses will remain valid. There will be no impact on the safety margin in existing analyses. Therefore, operation of the facility in accordance with the proposed change will not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: February 28, 1992

Description of amendments request: The proposed amendments to the Joseph M. Farley Nuclear Power Plant (Farley), Units 1 and 2, Technical Specifications would modify the thimble locations required for determining the quadrant power tilt ratio (QPTR) when one excor power range channel is inoperable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Farley Units 1 and 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The effect of modifying the surveillance procedure

to determine the Quadrant Power Tilt Ratio for the Farley units from requiring two sets of four unique symmetric thimbles to allowing for substitution of other thimbles, provided that the selected thimble and its symmetric counterpart (mirrored or rotational) in another quadrant are also monitored, has been evaluated. The potential effect on the FSAR analyses results for the LOCA and non-LOCA transients was shown, without exception, to not result in any design or regulatory limits being exceeded. All assumptions used in the present analysis of record are unaffected by this change in procedure and, therefore, the current analyses remain bounding. In addition, since this change does not impact any conditions that would initiate a transient, the probability of previously analyzed events is not increased. Therefore, the change to the QPTR surveillance procedure does not involve a significant increase in the probability or consequence of an accident previously evaluated and would be covered by the safety analysis presented in the Farley FSAR.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Revising the surveillance procedure for the QPTR will not propagate to a new or different accident, based on the fact that the evaluation performed concluded that all accident conditions are within the limits established in the Farley FSAR. In addition, the transients analyzed will not degrade into new failure modes which are not covered by the FSAR. Therefore, this change to the Technical Specifications does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in a margin of safety. As stated before, the use of the substitute thimble locations still allows valid QPTR determination such that core peaking factors can be assured to remain within their prescribed limits. Core axial power distributions, as well as other core physics parameters, are not affected by this specification change. The current safety analyses have been reviewed, and it was determined that this change will not impact the shutdown margin and the current analyses remain bounding with this change. Finally, there will be no impact on the operability of the units, and this change in operation will require no changes to the present safety analyses or to the safety system setpoints. Therefore, this change to the Technical Specifications does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial

Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P. O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: March 25, 1992 (TS 301)

Description of amendment request: The proposed amendment would relocate the Browns Ferry Nuclear Plant programmatic controls for radiological effluents and radiological environmental monitoring from the plant Technical Specifications to plant procedures consistent with the guidance and recommendations of NRC Generic Letter 89-01.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

TVA's [Tennessee Valley Authority's] proposed change is administrative in nature and provides programmatic controls for BFN's [Brown Ferry Nuclear Plant's] RETS [Radiological Effluent Technical Specifications] that are consistent with regulatory requirements. Relocation of procedural details of the current RETS to the PCP [Process Control Program] or ODCM [Offsite Dose Calculation Manual] will not affect plant hardware or reduce the level of radiological effluent control. Under the proposed change, any future changes to the procedural details of the PCP or ODCM would be controlled by the Administrative Controls Section of BFN's TS [Technical Specifications]. TVA's proposed change follows the guidance provided in NRC's GL [Generic Letter] 89-01. Since the changes do not affect the operability of plant equipment or alter the design basis of the plant, the probability or consequences of an accident previously evaluated have not been increased.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously analyzed.

No new accident scenarios will be created by TVA's proposed change since these changes are administrative in nature and do not affect plant hardware, system configuration, or BFN's design basis. TVA's proposed amendment incorporates programmatic control for RETS within the Administrative Controls Section of BFN's TS to satisfy the requirements of 10 CFR 20.106,

40 CFR Part 190, 10 CFR 50.36a, and Appendix I to 10 CFR Part 50. TVA's change is consistent with NRC's staff guidance as provided in GL 89-01. Consequently, the possibility of a new or different kind of accident from those previously analyzed is not created.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The procedural details contained in BFN's current RETS [will be] relocated to BFN ODCM or PCP. This relocation does not alter the applicable regulatory requirements and does not involve any changes to plant hardware or configuration. Consequently, TVA's proposed change does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Ell B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: April 1, 1992 (TS 311)

Description of amendment request: The proposed amendments revise the DEFINITIONS section 1.0, paragraph LL, Surveillance of the Browns Ferry Nuclear Plant Technical Specifications to be consistent with the guidance of Generic Letter 89-14. DEFINITIONS 1.0.LL currently limits the combined interval for any three consecutive intervals to a maximum of 3.25 times the specified surveillance interval. The arbitrary limitation on the combined time of any three consecutive surveillance intervals is proposed to be deleted. The proposed amendments add a statement to DEFINITIONS 1.0.LL that the 25 percent extension provision is not to be used repeatedly as a convenience to extend surveillance intervals, other than for those that are performed during refueling outages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not cause a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not change any design assumptions related to radioactive release barrier capabilities or stresses. The proposed amendment does not change any accident precursors. For the above reasons, the probability of an accident is not increased.

The consequences of an accident may be affected by the expected performance of safety related structures, systems or components. One of the bases for the assumed performance of structures, systems or components is the performance of surveillance tests within the surveillance interval to ensure that incipient failures are detected. There is a TS [Technical Specification] allowance to extend an interval up to 25 percent when plant conditions are not suitable for conducting the surveillance. This allowance for an extension, which is based on engineering judgment, is not considered to change the bases for the assumed performance of accident mitigation features. The allowance for extension enhances plant safety by giving the flexibility to postpone a surveillance that is due when plant conditions make conduct of the test inadvisable, such as during a transient or other ongoing maintenance or surveillance activities. A statement is being added to the definition of surveillance to the effect that the extension allowance is not to be used repeatedly for convenience to extend surveillances which are not performed during refueling outages. The application of the provision to extend surveillances for refueling intervals is acceptable because the risk to safety is low in contrast to the alternative of a forced shutdown to perform these surveillances. This change will reduce the administrative burden for assuring that the extension provision is not abused; and, it will enhance safety by allowing consideration of operational conditions at the time the surveillance becomes due. For these reasons, the bases for the performance of systems, structures, or components which are designed to mitigate the consequences of an accident are not changed. No other factors which could affect the consequences of previously analyzed accidents are changed.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This amendment does not add any new plant features, operating conditions, or operating modes. For this reason, accidents of a new or different type are not made possible as a result of this amendment.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change does not cause or allow the plant to be operated nearer to any operating limits and it does not affect any assumptions related to the limiting values of safety parameters during normal operations, accidents, or transients. The basis for the reliability of components, systems and structures being ensured by periodic

surveillances is not changed. The safety benefit of allowing the 25 percent allowance to extend a surveillance interval for surveillances performed during refueling, or when plant conditions are not conducive to the performance of the surveillance (such as during a transient or other ongoing surveillance or maintenance activities), would outweigh any benefit derived by limiting three consecutive surveillance intervals to the 3.25 limitation. For the reasons listed above, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Ell B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-259 and 50-296, Browns Ferry Nuclear Plant, Units 1 and 3, Limestone County, Alabama

Date of amendment request: April 1, 1992 (TS 302)

Description of amendment request: Section 6.0, "Administrative Controls", of the Browns Ferry Nuclear Plant (BFN) Units 1 and 3 Technical Specifications is being revised to add a new specification, 6.8.5. This specification requires BFN Units 1 and 3 to establish, implement, and maintain a Post Accident Sampling System (PASS). The PASS provides the capability to obtain and analyze reactor coolant, radioactive iodines and particulates in plant gaseous effluents, and containment atmosphere samples under accident conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The purpose of [the] PASS [Post Accident Sampling System] is to perform radiological and chemical analyses of reactor coolant and containment atmosphere samples after a design basis accident has occurred. Otherwise, the PASS is only operated for short periods of time to support training and

calibration activities. The operation of the PASS or the failure of the PASS to operate does not affect the Final Safety Analysis Report (FSAR) analysis of design bases accidents. The sampling and analytical capability of the PASS will aid in mitigation of the consequences of an accident by providing timely information to operating personnel on certain post-accident radiological parameters. Therefore, the addition of administrative requirements to establish and maintain a post-accident sampling capability does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. This proposed change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

The addition of requirements to establish and maintain a post-accident sampling capability in the administrative section of the technical specifications does not add any new equipment to the plant or require existing equipment to be operated in a manner different from which it was designed to operate. Therefore, there is no effect on the Final Safety Analysis Report (FSAR) analysis of design basis accidents. No operation outside the plant design basis is introduced, so there is no possibility for creation of a new or different kind of accident from any previously evaluated.

3. This proposed change does not involve a significant reduction in a margin of safety.

The addition of PASS to the administrative programmatic requirements of the technical specifications will help to ensure operability this function when required in a post-accident situation. This proposed change to the technical specifications does not physically modify any equipment, setpoints, or initiation sequence of equipment. No adverse safety impact or reduction in safety margins occur due to. Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Ell B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-259 and 50-296, Browns Ferry Nuclear Plant, Units 1 and 3, Limestone County, Alabama

Date of amendment request: April 6, 1992 (TS 308)

Description of amendment request: The proposed amendments revise the Technical Specifications for Browns

Ferry Nuclear Plant Units 1 and 3 to add an Automatic Depressurization System (ADS) high drywell pressure bypass timer to the ADS initiation circuitry. The present ADS timer setpoint will be changed to less than or equal to 115 seconds from 120 seconds plus or minus 5 seconds, and the new ADS high drywell pressure bypass timer setpoint will be less than or equal to 322 seconds. The proposed Technical Specification changes also include functional test, calibration, and instrument check requirements for the high drywell pressure bypass timer.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The only design basis accident described in chapter 14 of the Final Safety Analysis Report [FSAR] which is affected by this change is the main steam line break outside containment. These technical specification changes will add the ADS [Automatic Depressurization System] high drywell bypass timer and revise the ADS initiation timer setpoint to ensure reactor depressurization early enough so the low pressure injection systems can operate to maintain the PCT [Peak Cladding Temperature] below 1500°F. The proposed changes comply with the recommendations of NUREG-0737, Item II.K.3.18 and, physical changes to the plant meet design specifications for ADS.

The changes will allow the operator sufficient time to determine the necessity for an ADS initiation and to prevent unnecessary ADS initiation by resetting the ADS initiation timer or by utilizing the manual inhibit switch. Therefore, the consequences of an accident previously evaluated are not significantly increased.

The proposed changes do not affect any accident precursors; therefore, the probability of occurrence of an accident previously evaluated is not increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to reduce the ADS initiation timer setpoint from 120 [plus or minus] 5 seconds to [less than or equal to] 115 seconds helps to ensure that the ADS reacts to an accident condition within the time assumed in FSAR analysis. The proposed addition of the ADS high drywell pressure bypass timer causes ADS to automatically initiate for accidents which previously required manual initiation. These accidents involve line breaks outside the containment that result in a low reactor water level ADS initiation signal but do not

result in a high drywell pressure ADS initiation signal.

The wiring and components for the proposed design change to add the ADS high drywell bypass timer are similar to or better than those presently used in the ADS. Therefore, physical reliability of the new circuits should be at least as good as present ADS circuits. The present ADS initiation timer and the new ADS bypass timer are Series 7000 Agastat Time Delay Relays, thus operating characteristics should be the same. The possibility of spurious actuation due to equipment failure, testing, or maintenance errors is slightly greater for the new circuit than for the present one since the modifications provide more paths to complete ADS initiation (Boiling Water Reactor Owners' Group (BWROG) Evaluation of NUREG-0737, Item ILK.3.18, "Modification of ADS Logic," submitted to NRC under a cover letter dated October 28, 1982, BWROG-8260, page 57). However, the possibility of an unnecessary PV [reactor pressure vessel] depressurization is not significantly affected by the proposed modification since any slight increase in the chance of spurious actuation is offset by a decrease in the possibility of inadvertent manual depressurization due to operator error (BWROG, Evaluation of NUREG-0737, Item ILI.3.18, page 56). The proposed change does not create any new or different modes of operation, other than those already evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

GE [General Electric] has performed a bounding analysis using previous BFN [Browns Ferry Nuclear Plant] analysis and data from similar plants to determine setpoints for the ADS initiation timer and the new ADS high drywell bypass timer. This bounding analysis concluded that for an ADS initiation timer analytical limit of 130 seconds and an ADS high drywell pressure bypass timer analytical limit of 360 seconds, the PCT will not exceed 1500°F. This temperature is well below the limiting PCT of 2200°F. [This is one of the acceptance criteria specified by 10 CFR 50.46.]

Installation of the new ADS high drywell pressure bypass timer will meet system design requirements. The addition of the new timer will help to avoid operator error by providing an automatic initiation of ADS for line breaks outside containment that do not result in a drywell high pressure ADS initiation signal. The proposed changes meet the intent of NUREG-0737, Item ILK.3.18, for upgrading the design of the ADS.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Ell B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: April 13, 1992 (TS 308)

Description of amendment request: Browns Ferry Nuclear Plant (BFN) Units 1, 2, and 3 Technical Specification Sections 3.11 Bases, 3.11/4.11 and 6.2.2.g requirements are being relocated, in their entirety, to the Fire Protection Program. This program will be part of the BFN Updated Final Safety Analysis Report

The proposed amendments consist of the deletion of license condition 2.C.4 for Unit 1, and for Unit 2 the first paragraph in 2.C.5, and 2.C.5.a. The amendments add the Standard License Condition for fire protection to the BFN Units 1, 2, and 3 operating licenses, and add administrative controls over the Fire Protection Report to Technical Specifications to implement the license condition. The amendments also delete Technical Specification 3.11 Bases, 3.11/4.11 Fire Protection Systems, and Section 6.2.2.g Fire Brigade Staffing Requirements for BFN. These items have been incorporated into the Fire Protection Program.

The proposed amendment also adds paragraph 6.5.1.6 requiring Plant Operation Review Committee (PORC) review of the Fire Protection Program. For Unit 2 only, the amendment deletes definition "NN," paragraph 6.5.1.1, and deletes reference to the Appendix R Program in paragraphs 6.5.2.8.h and 6.8.1.1.f.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The existing license condition requires that BFN Units 1 and 2 comply with the license condition based on Section X of the Fire Recovery Plan and, that Unit 2 operate under the auspices of the Appendix R Safe Shutdown Program. The proposed license condition will require all provisions of the present Fire Protection Program to be

maintained in effect and that changes to the program be made in accordance with the provisions of 10 CFR 50.59. The overall objective of the Fire Protection Program and the license condition is to ensure safe shutdown of the plant in the event of a fire. The provision[s] of 10 CFR 50.59 [preserve] the ability to achieve and maintain safe shutdown of the plant.

The proposed TS amendment will have no effect on the fire protection program. The operability requirements of the fire protection features and the surveillance requirements are not being changed. This change removes the fire protection TS 3.11 Bases, 3.11/4.11 Fire Protection Systems and 6.2.2.g, Fire Brigade Staffing Requirements from TSs, and places them into the [Updated Final Safety Analysis Report] UFSAR; and adds administrative requirements. This relocation is considered administrative in nature; therefore, this amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed license condition will ensure that the ability to achieve and maintain safe shutdown in the event of a fire is preserved. The proposed license condition is consistent with the objectives of GL 86-10. That is, proposed changes to the Fire Protection Program are reviewed against the criteria contained in 10 CFR 50.59.

The proposed TS changes do not alter the requirements to maintain the operability of the fire protection features, and does not alter minimum staffing requirements. This change relocates these requirements to the Fire Protection [Program]. Plant procedures will continue to provide specific instructions for implementing Limiting Conditions for Operation action and surveillance requirements. There has been no reduction in commitments and, this administrative change meets requirements of existing TSs. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This change does not involve a significant reduction in the margin of safety.

Removal of the existing license conditions referencing Section X of the Fire Recovery Plan and the Appendix R Safe Shutdown Program is consistent with guidance set forth in GL 86-10. The proposed license condition is consistent with GL 86-10 in that it requires that changes to the Fire Protection Program be made in accordance with the provisions of 10 CFR 50.59. The Fire Protection Program will be incorporated into the UFSAR during the next annual update.

TS 3.11 Bases, 3.11/4.11, and 6.2.2.g are being deleted, and the requirements contained therein will be incorporated into the UFSAR during the next scheduled update. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the TSs. Changes to the program will be reviewed

under 10 CFR 50.59. Therefore, this administrative change will not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room

Location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Ell B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebbon

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: March 1, 1991

Description of amendment request:

The proposed amendment would revise Technical Specification Table 6.2-1, "Minimum Shift Crew Composition," to allow one of the two positions of Senior Reactor Operator (SRO), and the position of shift technical advisor (STA) to be filled by a single, properly trained individual.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Toledo Edison has reviewed the proposed change and determined that a significant hazards consideration does not exist because operation of the DBNPS, Unit Number 1, in accordance with this change would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no accident initiators or assumptions are affected. The analyses of accidents that concern operator error, do not take credit for the STA as decreasing the probability of occurrence of these accidents. The proposed amendment simply provides flexibility in meeting an administrative requirement and does not involve any modifications or changes in the plant.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because no accident conditions or assumptions are affected. With the proposed changes, shift personnel will continue to have the expertise to recognize and effectively deal with plant transients or other abnormal events. The analyses of accidents do not take credit for the STA as mitigating the consequences of these accidents. The proposed change is administrative. The expertise of the operating shift is not

jeopardized and the radiological consequences of any evaluated accident remain unchanged.

2a. Not create the possibility of a new kind of accident from any accident previously evaluated because no accident initiators are created. The proposed change does not involve any modifications or changes in the plant. This is an administrative change in which the ability of the operating shift is not jeopardized. Since the STA has no operational responsibilities or duties on shift other than those associated with plant transients and accidents, combining the STA position with the SRO function will not introduce any new opportunity for operator error to occur.

2b. Not create the possibility of a different kind of accident from any accident previously evaluated because the administrative change has no effect on plant systems, accident initiators or accident assumptions. The change does not affect any system functional requirements, plant maintenance, or operability requirements.

3. Not involve a significant reduction in a margin of safety. The proposed change will not have any significant effect on safety limits, boundary performance or system performance. The STA or SRO/STA will continue to provide engineering and accident assessment expertise on shift. The training, experience, and expertise on shift to analyze, assess, and evaluate plant transients and accidents will not be diminished.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposed to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room

Location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment requests: June 24, 1991, November 11, 1991, and November 11, 1991.

Description of amendment requests:

TU Electric has proposed three amendment requests that involve editorial changes. Two of the proposed amendments will correct typographical errors to the Comanche Peak Steam Electric Station (CPSES) Technical Specifications (TS) (TS 4.6.2.1b and TS 4.8.1.1.2d.1b)). The third amendment proposal will delete a reference to Section 51.5(b)(2) of Title 10 of the Code of Federal Regulations from the Environmental Protection Plan (EPP).

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed changes do not involve a significant increase in the probability or consequences of a previously evaluated accident.

TU Electric has proposed three amendment requests which involve editorial changes only. Specifically, by letter dated November 11, 1991, the licensee requested to amend CPSES Unit 1 TS 4.6.2.1b to correct a typographical error (i.e., discharge pressure of 245 psig should be 245 psid) in the containment spray system surveillance requirement; by a separate letter dated November 11, 1991, they requested to amend CPSES Unit 1 TS 4.8.1.1.2d.1b) to correct a typographical error (i.e., kinematic viscosity test for new fuel oil should be conducted at 4°C not 4°F) in the diesel generator fuel oil surveillance requirement; and by letter dated June 24, 1991, they proposed to amend Section 3.1 of the Environmental Protection Plan (EPP), for CPSES Unit 1, to delete a reference to Section 51.5(b)(2) of Title 10 of the Code of Federal Regulations. Each of these changes are editorial in nature and do not alter the intent of their respective paragraphs.

The proposed changes are editorial only, and therefore, have no effect on the probability or consequences of accidents previously evaluated for CPSES Unit 1.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are editorial only, and therefore, do not alter the analysis of any previously evaluated accidents, nor do they create any new or different kind of accident not previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes are editorial only, and therefore, do not reduce the margin of safety for CPSES.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for an amendment involves no significant hazards consideration.

Local Public Document Room

Location: University of Texas at Arlington Library, Government

Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019.
Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: Suzanne C. Black

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request:
 November 18, 1991

Description of amendment request:
 The proposed amendment revises TS Table 3.3.6-1, "Control Rod Block Instrumentation," to delete a footnote associated with the Intermediate Range Monitors (IRMs). Specifically, the proposed amendment requests deletion of the footnote related to the "detector not full in" trip function. The footnote incorrectly implies that the applicable rod block signal is bypassed when the IRMs are in their lowest range setting.

Basis for proposed no significant hazards consideration determination:
 As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazards consideration because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the change corrects the Technical Specifications to reflect the original, correct, and more conservative design. In this instance there is no increase in the probability or consequences of an accident previously evaluated because the Technical Specifications are being changed to show the original intent of the design and the original support provided by the IRM system as evaluated in the accident analyses. Hence, the accident analyses remains unchanged.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the IRM function and reliability are not affected by this change. No new modes of plant operation are introduced with this change. Hence, no new or different kind of accident is credible.

3) Involve a significant reduction in a margin of safety because as stated above no change to the original design or accident analysis is affected or reduced by this change. Therefore, there is no impact to a margin of safety with this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room
Location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 14, 1992

Description of amendment request:
 The proposed amendment revises a surveillance associated with the jet pumps to conduct operability testing within 12 hours of exceeding 25% rated thermal power (RTP) and every 24 hours thereafter and delete the requirement to conduct this test prior to exceeding 25% RTP. Additionally, the request proposes to increase the acceptability range of variability from 10% to 20% for the jet pump diffuser-to-lower plenum differential pressure measurement. Finally, the proposal identifies two minor administrative discrepancies that need to be corrected.

Basis for proposed no significant hazards consideration determination:
 As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazards consideration because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the change does not result in any hardware or operating procedure changes. The jet pumps are not assumed to be an initiator of any analyzed event. Their role is to maintain structural integrity to allow reflooding of the core following a design basis LOCA. The change does not delete the surveillance of the jet pumps but postpones it until adequate conditions are achieved for performing a meaningful test. The time period is acceptably short taking into consideration the small probability of a loss of jet pump integrity when the OPERABILITY of the jet pumps has not been demonstrated. It also acknowledges that the most probable result of the surveillance performance is the verification of the OPERABILITY. The consequences of any analyzed events are unaffected because the change does not alter any system or component design assumptions or operation. Therefore, no significant increase in the probability or consequences

of an accident previously evaluated will be involved.

The change in acceptability range from 10% to 20% for differential pressure measurements does not involve a significant increase in the probability or consequences of an accident previously evaluated because the confidence level remains the same as that obtained for flow measurements using 10%. The reference Service Information Letter (SIL) noted that either measurements could be used but due to the relationship between pressure and flow in a fluid system a 20% acceptability range for differential pressure provided the same confidence level as 10% for flow measurements. By oversight the 10% was applied to WNP-2. This change returns the surveillance requirement to that originally intended. Hence, there is no significant increase in the probability or consequences of an accident previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new modes of plant operation nor does it require physical modification to the plant. Hence, no new or different kind of accident is credible.

The change in acceptability range (10% to 20%) does not create the possibility of a new or different kind of accident from any previously evaluated because it does not change modes of plant operation or require physical modifications. No new or different kind of accident is credible.

3) Involve a significant reduction in a margin of safety because the deletion of the requirement to perform jet pump surveillances below 25% RTP does not involve a significant reduction in a margin of safety. The time allowed to operate prior to performing the jet pump surveillance is acceptably short based on the small probability of a loss of jet pump integrity occurring when the jet pumps may not be operable. The requested extension allows sufficient time to achieve a power level and flow where meaningful jet pump testing can be performed. Additionally, inservice inspections performed after refueling prior to startup serve to ensure jet pump structural integrity/operability is maintained. Therefore, this change does not represent a significant reduction in a margin of safety.

The change in acceptability range from 10% to 20% does not involve a significant reduction in a margin of safety because the same confidence level intended by the SIL is preserved. A 20% acceptability range for differential pressure provides the same level of confidence as a 10% acceptability range applied to the flow measurement. Hence, the margin of safety intended by the SIL remains unaffected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room
Location: Richland Public Library, 955

Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: October 31, 1991

Brief description of amendment: The amendment changes the required refueling shutdown margin accomplished with a required minimum boron concentration of 1950 parts per million from 10 percent delta k/k to 6 percent delta k/k.

Date of issuance: April 29, 1992.

Effective date: April 29, 1992.

Amendment No. 140

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: December 28, 1991 (56 FR 66917) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: February 28, 1992

Brief description of amendment: The amendment will revise the visual inspection surveillance requirements in Technical Specification (TS) 4.7.4.a, "Snubbers" and acceptance criteria in TS 4.7.4.b associated with the snubbers. In addition, the TS will be relettered from 4.7.4.c, d, e, and f to 4.7.4.d, e, f, and g respectively.

Date of issuance: May 8, 1992

Effective date: May 8, 1992

Amendment No. 151

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 1, 1992 (57 FR 11105) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 8, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, et al., Docket nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: December 18, 1991, as supplemented February 17, 1992

Brief description of amendments: The amendments revise the Technical Specifications to reflect a reorganization of the Duke Power Company (DPC). The reorganization essentially decentralizes the corporate management of nuclear activities to each of DPC's three nuclear site facilities, including the Catawba Site.

Date of issuance: May 7, 1992

Effective date: May 7, 1992

Amendment Nos.: 96, 90

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 4, 1992 (57 FR 7809) The Commission's related evaluation of the amendments is contained in Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: May 9, 1988, as supplemented August 1, 1988, and January 5, 1989

Brief description of amendments: The amendments involve a few editorial corrections as well as changes to the reactor coolant system (RCS) surveillance frequency that stemmed from Duke Power Company's (DPC) investigation into an incident at McGuire Unit 2 involving a gradual decrease in indicated Delta-T. Subsequently, on October 8, 1991, DPC withdrew its amendment request to TS 4.2.3.5 regarding the RCS flow surveillance.

Date of issuance: May 7, 1992

Effective date: May 7, 1992

Amendment Nos.: 131, 113

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 10, 1988 (53 FR 30129) The August 1, 1988, and January 5, 1989, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's

related evaluation of the amendments is contained in a Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: January 16, 1991, as supplemented December 9, 1991, and March 26, 1992

Brief description of amendments: The amendments revised License Condition 3.E., "Fire Protection," and revise Technical Specifications 3.17 and 4.19 by relocating the fire protection requirements to Chapter 16 of the Final Safety Analysis Report. These changes are consistent with Generic Letters 86-10 and 88-12.

Date of issuance: May 7, 1992

Effective date: To be implemented within 30 days of issuance

Amendment Nos.: 194, 194, 191

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55: Amendments revised the Licenses and Technical Specifications.

Date of initial notice in Federal Register: March 20, 1991 (56 FR 11779) The December 9, 1991, and March 26, 1992, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: January 2, 1992, as supplemented February 14, 1992

Brief description of amendments: The amendments revise the Administrative Controls Section to reflect a reorganization of the Duke Power Company (DPC). The reorganization essentially decentralizes the corporate management of nuclear activities to each of DPC's three nuclear site facilities, including the Oconee Site. The revisions to the Technical Specifications (TS) also reflect and are complementary to revisions to the DPC Quality

Assurance Topical Report. The review of this report, based upon the guidance of Standard Review Plan 17.3 as issued in August 1990, is being addressed as a separate action from the revision of the TS.

Date of issuance: May 1, 1992

Effective date: 30 days from the date of issuance

Amendment Nos.: 193, 193, 190

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 18, 1992 (57 FR 9443) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: July 26, 1985 as supplemented August 14, 1987, August 12 and November 28, 1988, August 21, 1990, March 5, 1991, March 24 and April 9, 1992

Brief description of amendments: The amendments revise the Technical Specifications to add Limiting Conditions for Operation, surveillance requirements and bases, and manpower requirements for the operation of the Standby Shutdown Facility.

Date of issuance: May 11, 1992

Effective date: May 11, 1992

Amendment Nos.: 195, 195, 192

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 23, 1985 (50 FR 43024) The August 14, 1988, August 12 and November 28, 1988, August 21, 1990, March 5, 1991, March 24 and April 9, 1992, letters provided clarifying information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 11, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, et al., Docket No. 50-412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: October 15, 1991, as supplemented January 27, and February 25, 1992.

Brief description of amendment: The amendment revises the Appendix A Technical Specifications to provide for the use of VANTAGE 5H fuel in Cycle 4.

Date of issuance: May 1, 1992

Effective date: May 1, 1992

Amendment No. 46

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1992 (57 FR 2592) The January 27, and February 25, 1992 submittals provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: June 27, 1991 as supplemented December 20, 1991.

Brief description of amendment: The amendment revised the Arkansas Nuclear One, Unit 2 (ANO-2) Technical Specifications (TS) based on the recommendations provided by the staff in Generic Letter 87-09 related to the applicability of limiting conditions for operations and the surveillance requirements of TS 3.0 and 4.0.

Date of issuance: May 5, 1992

Effective date: May 5, 1992

Amendment No.: 134

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 21, 1991 (56 FR 41582) The additional information contained in the supplemented letter dated December 20, 1991, was clarifying in nature and thus, within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 5, 1992. No

significant hazards consideration comments received: No.

Local Public Document Room
location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: January 21, 1992

Brief description of amendments: The amendments revised the ANO-1 Technical Specifications by adding a measurement range to the seismic monitoring instrumentation requirements and correcting an error in component nomenclature. Additionally, a typographical error in the measurement range for ANO-2 seismic monitor 2XR-8347 is corrected.

Date of issuance: May 5, 1992

Effective date: May 5, 1992

Amendment Nos.: Unit 1; 160 and Unit 2; 135

Facility Operating License Nos. DPR-51 and NPF-6. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 4, 1992 (57 FR 7810) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 5, 1992. No significant hazards consideration comments received: No.

Local Public Document Room
location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: January 23, 1992

Brief description of amendment: This amendment relocates the Radiological Effluent Technical Specifications (RETS) requirements from the TS to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP), in accordance with the guidance of NRC Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications and Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program."

Date of issuance: May 4, 1992

Effective date: May 4, 1992

Amendment No.: 141

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 1, 1992 (57 FR 11108). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1992. No significant hazards consideration comments received: No.

Local Public Document Room
location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 20, 1991, as supplemented December 19, 1991 and January 20, 1992

Brief description of amendment: This amendment revises the snubber visual inspection requirements to be consistent with guidance contained in Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," dated December 11, 1990.

Date of issuance: May 4, 1992

Effective date: May 4, 1992

Amendment No.: 142

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 24, 1991 (56 FR 33956) and April 1, 1992 (57 FR 11107). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 4, 1992. No significant hazards consideration comments received: No.

Local Public Document Room
location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 23 1991, as supplemented by letter dated January 24, 1992.

Brief description of amendments: The amendments change the Technical Specifications by removing Table 4.4-5 which provides the schedule for reactor vessel material specimen withdrawal. Guidance on the proposed change was provided by Generic Letter 91-01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens from Technical Specifications."

Date of issuance: May 6, 1992

Effective date: May 6, 1992, to be implemented within 7 days of issuance

Amendment Nos.: Amendment No. 36 and Amendment No. 27

Facility Operating License Nos. NPF-76 and NPF-80: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 18, 1992 (57 FR 9445) The January 24, 1992, submittal requested a 7-day implementation period following date of issuance of the amendment and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 6, 1992. No significant hazards consideration comments received: No

Local Public Document Room
location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 21, 1992

Description of amendment request: The amendment modified TS 6.3, "UNIT STAFF QUALIFICATIONS," by deleting redundant wording regarding "Radiation Protection Manager" qualifications in TS. 6.3.1.

Date of issuance: April 27, 1992

Effective date: April 27, 1992

Amendment No.: 63

Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 5, 1992 (57 FR 7943) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 1992. No significant hazards consideration comments received: No

Local Public Document Room
location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: August 7, 1990

Brief description of amendments: The amendments revise the surveillance frequency of safety-related pumps and valves to be consistent with the Inservice Testing (IST) Program. They

also delete references to the 1974 ASME code and make editorial changes.

Date of issuance: April 22, 1992

Effective date: April 22, 1992

Amendments Nos.: 164 and 149

Facility Operating Licenses Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 12, 1990 (55 FR 51178). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 22, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: January 10, 1992

Brief description of amendments: The proposed amendments revise the Technical Specifications (TS), Section 4.13 in response to Generic Letter (GL) 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," which provides an alternate schedule for visual inspection of snubbers. The current snubber visual inspection schedule in TS Section 4.13.A is being replaced with a reference to a new TS Table TS 4.13-1 and the current snubber visual inspection acceptance criteria in TS Section 4.13.B are being revised per the guidance in GL 90-09.

Date of issuance: May 8, 1992

Effective date: 30 days after the issuance.

Amendment Nos.: 98 and 91

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 5, 1992 (57 FR 4490) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: December 11, 1991

Brief description of amendment: This amendment changes the technical specifications in support of the Cycle 7 reload.

Date of issuance: May 7, 1992

Effective date: As of its date of issuance to be implemented within 30 days after its date of issuance.

Amendment No.: 118

Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1992 (57 FR 2598) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: March 3, 1992

Brief description of amendments: The amendments revised the Surveillance Requirements (SRs) and pertinent Bases of the Technical Specifications (TSs) to incorporate the most recent recommendations contained in the American Society of Mechanical Engineers (ASME) Operations and Maintenance (OM) standard for snubber testing, ASME/ANSI OM-1990 Addenda to ASME/ANSI OM-1987, Part 4, "Examination and Performance Testing of Nuclear Power Plant Dynamic Restraints (Snubbers)." Specifically, 1) the changes revised the 10% functional testing sampling plan (SR 4.7.4.e.1), 2) deleted the 55 plan (SR 4.7.4.e.3), 3) incorporated the concept of "Failure Mode Grouping, (FMB)", and 4) removed the "reject" line from the 37 plan (SR 4.7.4.e.2).

The licensee's requested change to extend the snubber functional testing interval from 18 to 24 months to accommodate a 24-month refueling cycle will be processed separately and, therefore, was not granted with these amendments.

Date of issuance: May 11, 1992

Effective date: May 11, 1992

Amendment Nos.: 54 and 19

Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 18, 1992 (57 FR 9452) The Commission's related evaluation of the amendments is contained in a Safety

Evaluation dated May 11, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: July 13, 1990 and supplemented by letters dated November 27, 1991 and February 21, 1992

Brief description of amendments: The amendments revised the Administrative Controls Section (Section 6.0) of the Technical Specifications, including the addition of a new TS Section 6.5.3, to reflect the implementation of Station Qualified Reviewer Program for review and approval of new station programs, procedures, and changes thereto.

Date of issuance: May 7, 1992

Effective date: May 7, 1992

Amendments Nos.: 167 and 171

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 15, 1991 (56 FR 22474) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: December 30, 1991

Brief description of amendment: The amendment revised Technical Specifications Section 6.0 (Administrative Controls) to reflect a management reorganization at the site. The management reorganization included position title changes, the establishment of two new senior level management positions, the reassignment of position responsibilities, and the restructuring of the Plant Operating Review Committee (PORC). In addition, Section 6.0 was retyped in its entirety

for format consistency and to correct typographical errors.

Date of issuance: May 14, 1992

Effective date: May 14, 1992

Amendment No.: 116

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 19, 1992 (57 FR 6040) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 30, 1990, as supplemented April 18, 1991.

Brief description of amendment: The amendment updates two tables to reflect the installation of new post-accident monitoring instrumentation. Specifically, instruments installed to satisfy the requirements of Regulatory Guide 1.97 are added to Table 3.2-8, "Accident Monitoring Instrumentation," and Table 4.2-8, "Minimum Test and Calibration Frequency for Accident Monitoring Instrumentation." Technical Specification Tables 3.2-8, "Surveillance Instrumentation," 4.2-8, "Minimum Test and Calibration Frequency for Surveillance Instrumentation," and 4.7-1, "Minimum Test and Calibration Frequency for Containment Monitoring Systems" are deleted, since the function of the old instrumentation is effectively superseded by the new more qualified instruments included in revised Tables 3.2-8 and 4.2-8.

Date of issuance: May 14, 1992

Effective date: May 14, 1992

Amendment No.: 181

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 26, 1991 (56 FR 29279) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of Oswego, Oswego, New York 13126.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: February 24, 1992

Brief description of amendment: This amendment revised the snubber visual inspection requirements which are delineated in Surveillance 4.7.5. The revision incorporated an alternate schedule for snubber visual inspections which was recommended by the NRC in Generic Letter 90-09.

Date of issuance: May 7, 1992

Effective date: As of the date of issuance and shall be implemented within 60 days of the date of issuance.

Amendment No.: 50

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 1, 1992 (57 FR 11116) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 7, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 23, 1991

Brief description of amendment: This amendment reflects a change in surveillance requirements resulting from the upgrade of mechanically-actuated instrumentation (differential pressure switches) to an analog trip system. This instrumentation provides the main steam line high flow inputs to the Primary Containment Isolation System logic. The specific change is to extend the calibration interval for the high steam line flow instrumentation from quarterly to once each operating cycle.

Date of issuance: May 8, 1992

Effective date: May 8, 1992

Amendment No.: 133

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1992 (57 FR 2603) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: November 7, 1991

Brief description of amendments: The amendments remove wording describing, or committing to, any previous operator training programs since NA-1&2 training programs have been accredited and certified in accordance with Regulatory Guide 1.8, Revision 2, "Qualification and Training of Personnel for Nuclear Power Plants."

Date of issuance: May 6, 1992

Effective date: May 6, 1992

Amendment Nos.: 157 and 139

Facility Operating License Nos. NPF-4 and NPF-7: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 11, 1991 (56 FR 64665) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 6, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of application for amendment: November 7, 1991

Brief description of amendment: This amendment revises the current NA-1 TS to ensure that the correct measurement range of the triaxial response spectrum recorders is reflected in NA-1 TS 3.3.3.3, Table 3.3-7.

Date of issuance: May 6, 1992

Effective date: May 6, 1992

Amendment No.: 158

Facility Operating License No. NPF-4: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 26, 1991 (56 FR 66931). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 6, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: November 7, 1991

Brief description of amendments: The amendments revise the current NA-1&2 TS to ensure the design basis is met for the component cooling water system.

Date of issuance: May 12, 1992

Effective date: May 12, 1992

Amendment Nos.: 159, 140

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 11, 1991 (56 FR 64663) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 12, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: February 25, 1991

Brief description of amendment: The amendment deletes the requirement that the recirculation loop flow control valves be at the same position when performing jet pump surveillance 4.4.1.2.1.

Date of issuance: May 12, 1992

Effective date: May 12, 1992

Amendment No.: 103

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 7, 1991 (56 FR 37593) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 12, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Dated at Rockville, Maryland, this 19th day of May 1992.

For the Nuclear Regulatory Commission
Steven A. Varga,
Director, Division of Reactor Projects - I/II,
Office of Nuclear Reactor Regulation
[FR Doc. 92-12330 Filed 5-26-92; 8:45]

BILLING CODE 7590-01-F

[Docket No. 50-423]

**Northeast Nuclear Energy Co., et al.,
Millstone Nuclear Power Station, Unit
No. 3; Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49 issued to Northeast Nuclear Energy Company (NNECO) for operation, and NNECO, et al. for possession, of the Millstone Nuclear Power Station, Unit No. 3, located in New London County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the operating license to reflect the transfer of control of Public Service Company of New Hampshire's (PSNH's) 2.8475 percent ownership in Millstone Unit No. 3 through the merger of PSNH with a wholly owned subsidiary of Northeast Utilities (NU) with PSNH emerging as the surviving entity from the merger as a wholly owned subsidiary of NU. Millstone Unit No. 3 is operated by NNECO, on behalf of 14 co-owners, one of which is PSNH. NNECO alone is licensed to operate Millstone Unit No. 3. Ownership of the other 13 participants would not change. The proposed action is in accordance with the licensee's application dated March 21, 1991, as supplemented June 11, 1991.

The Need for the Proposed Action

The proposed action is required to reflect the ownership change discussed above. The amendment reflecting the transfer of PSNH's interest in the license will have minimal impact on the operation of the facility by NNECO. The transfer and amendment will not affect the facility's Technical Specifications, license conditions, or the organization and practices of NNECO.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed license amendment and concludes that there will be no changes to Millstone Unit No. 3 or the environment as a result of this action. The transfer of PSNH's interest in the license and the associated license amendment will not affect the numbers, qualifications, or organizational affiliation of the personnel who operate the facility, as NNECO will remain the holder of the operating license and continue to be responsible for the operation of Millstone Unit No. 3.

Accordingly, the Commission concludes that this proposed action would result in no radiological or nonradiological environmental impact.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in no benefits to the public or the parties involved.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Millstone Nuclear Power Station, Unit No. 3, issued in February 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons regarding this environmental assessment.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the application for the license amendment dated March 21, 1991, supplemented June 11, 1991, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland this 20th day of May 1992.

For the Nuclear Regulatory Commission,
John F. Stolz,

Director, Project Directorate I-4, Division of
Reactor Projects—I/II, Office of Nuclear
Reactor Regulation.

[FR Doc. 92-12137 Filed 5-26-92; 8:45 am]

BILLING CODE 7590-01-M

RESOLUTION TRUST CORPORATION**Coastal Barrier Improvement Act;
Property Availability; Forest Lakes, El
Paso County, CO**

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Forest Lakes, located in Monument, El Paso County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer on the property may be mailed or faxed to the RTC until August 25, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Ms. Joanne C. Burroughs, Resolution Trust Corporation, Phoenix Field Office, 2910 North 44th Street, Phoenix, AZ 85018, (602) 381-3460, Fax (602) 954-9549.

SUPPLEMENTARY INFORMATION: The Forest Lakes property consists of approximately 318 acres of undeveloped land and is located about 12 miles north of the City of Colorado Springs on Interstate Highway 25. The site contains wetlands, has recreational value, and is contiguous with the U.S. Air Force Academy near Pike National Forest. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the Property
Include: The site is undeveloped, contains some wetlands, and is bisected north to south by Interstate Highway 25 in Monument, Colorado. Approximately 250 acres of the property are located west of the Interstate and the remaining 66 Acres are on the east side of the highway. Directly south of and abutting the west section of the property is the U.S. Air Force Academy. The portion of the Air Force Academy's lands that are next to the Forest Lakes property are maintained in open space and managed for wildlife habitat conservation.

Property size: Approximately 318 acres.
Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 25, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government;

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by [insert date 90 days after Federal Register publication date] to Ms. Joanne C. Burroughs at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Forst Lakes

Federal Register Publication Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 20, 1992.
Resolution Trust Corporation.
William J. Tricarico,
Assistant Secretary.
[FR Doc. 92-12236 Filed 5-26-92; 8:45 am]
BILLING CODE 6714-01-M

**Coastal Barrier Improvement Act;
Property Availability; Lake Houston
Land, Harris County, TX**

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Lake Houston Land, Harris County, Texas, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 25, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Dallas, TX 75219-3935, (214) 443-2300, Fax (214) 443-4825.

SUPPLEMENTARY INFORMATION: The Lake Houston property is located on the eastern shore of Lake Houston on the north side of Smith Road just west of FM 2100 in northeast Harris County, Texas. The property consists of approximately 327 acres of undeveloped land adjacent to Lake Houston, a man-made lake managed by the City of Houston for drinking water and recreation. The property has recreational value, primarily for boating and fishing. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the Property
Include: The site is basically flat, forested, and there are no improvements existing on the property. The property abuts Lake Houston and provides recreational value in the form of access to the lake.

Property Size: Approximately 327 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before August 25, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by August 25, 1992 to Mr. Steven Reid at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Lake Houston Land

Federal Register Publication Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 20, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92-12235 Filed 5-26-92; 8:45 am]

BILLING CODE 6714-01-M

**Coastal Barrier Improvement Act;
Property Availability; Leslie Canyon,
Cochise County, AZ**

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Leslie Canyon, located near the City of Douglas, Cochise County, Arizona, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until August 25, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Ms. Joanne C. Burroughs, Resolution Trust Corporation, Phoenix Field Office, 2910 North 44th Street, Phoenix, AZ 85018, (602) 381-3460, Fax (602) 954-9549.

SUPPLEMENTARY INFORMATION: The Leslie Canyon property consists of 1,120 acres of undeveloped land and is located 14 miles north of Douglas and 2 miles east of Leslie Canyon Road, in the Swisshelm Mountains, Cochise County, Arizona. The property contains several natural washes and limestone ridges with numerous cacti species and agave used by the endangered Sanborn's long-nosed bat. This property is located immediately north of the San Bernardino/Leslie Canyon National Wildlife Refuge. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The topography ranges from rolling hills to mountainous terrain and the property contains several natural washes and some of the upper watershed of Leslie Creek. The property has natural desert vegetation with limestone ridges that contain numerous cacti species as well as a large number of agave.

Property size: Approximately 1,120 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before

August 25, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notice of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notice of serious interest to purchase or effect other transfer of the property must be submitted by August 25, 1992 to Ms. Joanne C. Burroughs at the above ADDRESSES and in the following form:

Notice of Serious Interest

RE: Leslie Canyon

Federal Register Publication Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase of other offer (e.g., price and method of financing).

Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: May 20, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92-12237 Filed 5-26-92; 8:45 am]

BILLING CODE 6714-01-M

**SECURITIES AND EXCHANGE
COMMISSION**

[File No. 270-325, Rule 15c2-6]

**Requests Under Review by Office of
Management and Budget**

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copies available from: Securities and Exchange Commission, Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549.

Revision

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has

submitted for OMB clearance proposed amendments to Rule 15c2-6 (17 CFR 240.15c2-6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), which requires broker-dealers to produce a written suitability determination for, and to obtain a written customer agreement to, certain recommended transactions in low-priced stocks that are not registered on a national securities exchange or authorized for trading on NASDAQ, and whose issuers do not meet certain minimum financial standards. The proposed amendments would change the definitional and exemptive sections of the rule to make the rule more compatible with certain other rules pertaining to transactions in these securities that were recently adopted by the Commission, but would not change the substantive requirements of the rule. It is estimated that approximately 400 broker-dealers incur an average burden of 78 hours per year to comply with this rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: May 15, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12290 Filed 5-26-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

**Order Adjusting International Cargo
Rate Flexibility Level**

Policy Statement PS-109, implemented by Regulation ER-1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 92-2-11, the Department

established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning April 1, 1992, we have projected non-fuel costs based on the year ended December 31, 1991 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 92-5-43 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic.....	1.2683
Western Hemisphere.....	1.1869
Pacific.....	1.6187

FOR FURTHER INFORMATION CONTACT:

Keith A. Shangraw (202) 366-2439.

By the Department of Transportation:

Dated: May 21, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-12313 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Rotorcraft Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Rotorcraft Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on June 16, 1992, at 9 a.m. Arrange for oral presentations by June 4, 1992.

ADDRESSES: The meeting will be held in the Conference Room, Helicopter Association International, 3rd floor, 1619 Duke Street, Alexandria, VA 22314-3406.

FOR FURTHER INFORMATION CONTACT:

Ms. Marge Ross, Aircraft Certification Service (AIR-1), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8235.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Rotorcraft Subcommittee to be held on June 16, 1992, in the Conference Room, Helicopter Association International, 3rd floor, 1619 Duke Street, Alexandria, VA 22314-3406. The agenda will include:

- Report from the External Load Working Group.

- Report from the Occupant Restraint Working Group.

- Discussion of future activities.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by June 4, 1992, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 16 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC, on May 19, 1992.

William J. Sullivan,

Executive Director, Rotorcraft Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-12284 Filed 5-26-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 91-37; Notice 2]

Determination that Nonconforming 1989 BMW 525i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by the Administrator of NHTSA that nonconforming 1989 BMW 525i passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by the Administrator of NHTSA that 1989 BMW 525i passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to two vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the 1989 BMW 525i and 525i), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective as of May 27, 1992.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was

not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that

"(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *"

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the *Federal Register* of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the *Federal Register*.

G&K Automotive Conversion, Inc. of Anaheim, California (Registered Importer No. R-90-007) petitioned NHTSA to determine whether 1989 BMW 525i passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 9, 1991 (56 FR 37938) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #5 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a non-U.S. certified 1989 BMW 525i is substantially similar to a 1989 BMW 525i and a 1989 BMW 535i that were originally manufactured for importation into and sale in the United States and

were certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and that the non-U.S. certified 1989 BMW 525i is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(a)(i)(I) and (C)(iii); 49 CFR 593.8; delegation of authority at 49 CFR 1.50 and 501.8

Issued on: May 21, 1992.

Jerry Ralph Curry,
Administrator.

[FR Doc. 92-12316 Filed 5-26-92; 8:45 am]
BILLING CODE 4910-59-M

[Docket No. 91-42; Notice 2]

Determination that Nonconforming 1988 BMW 730iA Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of determination by the Administrator of NHTSA that nonconforming 1988 BMW 730iA passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by the Administrator of NHTSA that 1988 BMW 730iA passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1988 BMW 735iA), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of May 27, 1992.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that

"(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in

the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the *Federal Register* of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the *Federal Register*.

G&K Automotive Conversion, Inc. of Anaheim, California (Registered Importer No. R-90-007) petitioned NHTSA to determine whether 1988 BMW 730iA passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 9, 1991 (56 FR 46032) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #6 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1988 BMW 730iA is substantially similar to a 1988 BMW 735iA originally manufactured for importation into and sale in the United States, certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(iii); 49 CFR 593.8; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: May 21, 1992.

Jerry Ralph Curry,
Administrator.

[FR Doc. 92-12315 Filed 5-26-92; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 19, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OBM reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510-0055.

Form Number: SF 5805.

Type of Review: Extension.

Title: Request for Funds.

Description: Information is required to fund respondents who are recipients of Federal Grants and program benefits. The respondents consist of State and local government agencies, municipalities, universities, and health organizations. The information is used solely to direct requested funds to the respondent's account at its financial institutions.

Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions.

Estimated Number of Respondents: 160.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Jacqueline R. Perry, (301) 436-6453, Financial Management Service, 3361-L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive

Office Building, Washington, DC
20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 92-12242 Filed 5-26-92; 8:45 am]
BILLING CODE 4810-35-M

**Public Information Collection
Requirements Submitted to OMB for
Review**

Date: May 19, 1992

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed

and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0231.

Form Number: IRS Form 6478.

Type of Review: Revision.

Title: Credit for Alcohol Used as Fuel.

Description: Internal Revenue Code (IRC) section 38(b)(3) allows a nonrefundable income tax credit for businesses that sell or use alcohol. Small ethanol producers also receive a nonrefundable credit for production of qualified ethanol. Form 6478 is used to figure the credits.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/
Recordkeepers: 5,600.

**Estimated Burden Hours Per
Respondent/Recordkeeper:**

Recordkeeping: 10 hours, 31 minutes.
Learning about the law or the form: 34 minutes.

Preparing the form: 1 hour, 41 minutes.
Copying, assembling, and sending the form to the IRS: 16 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/

Recordkeeping Burden: 78,080 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-12243 Filed 5-26-92; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 102

Wednesday, May 27, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, May 29, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE

INFORMATION: Jean A. Webb, 254-6314.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 92-12406 Filed 5-22-92; 11:19 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission Notice

(May 20, 1992)

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: May 27, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Agenda

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE

INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 959th Meeting—May 27, 1992, Regular Meeting (10:00 a.m.)

CAH-1.

Project No. 1417-037, Central Nebraska Public Power and Irrigation District
Project No. 1835-069, Nebraska Public Power District

CAH-2.

Project No. 2698-008, Nantahala Power and Light Company

CAH-3.

Project No. 8263-005, Summit Hydropower

CAH-4.

Project No. 10047-002, Northern Hydro Consultants, Inc.

Project No. 10514-001, C&A Wallcoverings, Inc.

CAH-5.

Project No. UL89-15-006, T.A. Keck

CAH-6.

Project No. 8974-002, Southern New Hampshire Hydroelectric Development Corporation

CAH-7.

Project No. 2205-011, Central Vermont Public Service Corporation

CAH-8.

Omitted

CAH-9.

Omitted

CAH-10.

Omitted

CAH-11.

Omitted

CAH-12.

Docket No. HB-20-85-1-003, Louisville Gas and Electric Company

CAH-13.

Project No. 7664-008, East Bench Irrigation District

CAH-14.

Project No. 6433-003, Warren B. Nelson

Project No. 6434-006, Thomas A. Nelson

Project No. 6435-001, Joseph B. Nelson

Consent Agenda—Electric

CAE-1.

Docket No. ER92-417-000, Niagara Mohawk Power Corporation

CAE-2.

Docket Nos. ER92-436-000 and EL92-29-000, Florida Power Corporation

CAE-3.

Docket No. ER92-286-000, New England Power Company

CAE-4.

Docket No. ER92-316-000, Southern Company Services, Inc.

CAE-5.

Docket Nos. ER92-361-000 and ER92-362-000, Green Mountain Power Corporation

CAE-6.

Docket No. EL92-12-000, Wisconsin Public Service Corporation

CAE-7.

Docket No. ER92-115-001, Portland General Electric Company

CAE-8.

Docket No. ER92-198-003, Consumers Power Company

CAE-9.

Docket No. EL88-1-003, Indiana & Michigan Municipal Distributors Association and City of Auburn, Indiana v. Indiana Michigan Power Company
Docket Nos. ER88-31-001 and ER88-32-001, Indiana Michigan Power Company

CAE-10.

Docket No. EL87-51-002, Cajun Electric Power Cooperative, Inc. v. Gulf States Utilities Company
Docket No. ER88-477-002, Gulf States Utilities Company

Consent Agenda—Oil and Gas

CAG-1.

Docket Nos. RP91-143-013 and RP92-159-000, Great Lakes Gas Transmission Limited Partnership

CAG-2.

Docket No. RP91-157-000, Pacific Offshore Pipeline Company

CAG-3.

Docket No. RP92-160-000, Tennessee Gas Pipeline Company

CAG-4.

Docket No. RP92-161-000, Penn-York Energy Corporation

CAG-5.

Docket Nos. RP92-163-000 and RP92-170-000, Williston Basin Interstate Pipeline Company

CAG-6.

Docket No. RP92-164-000, Tarpon Transmission Company

CAG-7.

Docket No. RP92-165-000, Trunkline Gas Company

CAG-8.

Docket No. RP92-166-000, Panhandle Eastern Pipe Line Company

CAG-9.

Docket Nos. RP91-161-008 and RP92-3-004, Columbia Gas Transmission Corporation

CAG-10.

Docket No. RP92-74-002, South Georgia Natural Gas Company

CAG-11.

Docket Nos. RP91-204-000 and RP90-111-000, East Tennessee Natural Gas Company

CAG-12.

Docket No. RP92-168-000, Florida Gas Transmission Company

CAG-13.

Docket Nos. RP92-156-000 and RS92-45-001, Natural Gas Pipeline Company of America

CAG-14.

Docket No. RP92-167-000, Natural Gas Pipeline Company of America

CAG-15.

Docket Nos. TA92-1-56-000 and TM92-2-56-000, Valero Interstate Transmission Company

CAG-16.

Docket No. TA92-1-55-000, Questar Pipeline Company

CAG-17.

Omitted

CAG-18.

Omitted

CAG-19.

Docket No. TQ92-10-25-000, Mississippi River Transmission Corporation

CAG-20.

- Docket No. TQ92-4-46-000, Kentucky West Virginia Gas Company
- CAG-21.
Docket Nos. TQ92-3-21-000 and TM92-8-21-001, Columbia Gas Transmission Corporation
- CAG-22.
Docket No. TQ92-4-18-000, Texas Gas Transmission Corporation
- CAG-23.
Docket Nos. TQ92-4-63-000 and TM92-2-63-000, Carnegie Natural Gas Company,
- CAG-24.
Docket No. TQ92-4-23-000, Eastern Shore Natural Gas Company
- CAG-25.
Docket Nos. TQ92-7-59-000 and 001, Northern Natural Gas Company
- CAG-26.
Docket Nos. TQ92-3-20-000 and TM92-16-20-000, Algonquin Gas Transmission Company
- CAG-27.
Omitted
- CAG-28.
Docket No. RP92-158-000, South Georgia Natural Gas Company
- CAG-29.
Docket No. TA92-1-7-000, Southern Natural Gas Company
- CAG-30.
Docket No. TA91-1-48-003, ANR Pipeline Company
- CAG-31.
Docket No. RP91-143-014, Great Lakes Gas Transmission Limited Partnership
- CAG-32.
Docket Nos. RP92-104-001 and RP92-131-001, K N Energy, Inc.
- CAG-33.
Docket No. RP92-118-002, Panhandle Eastern Pipe Line Company
- CAG-34.
Docket No. RP92-102-002, Panhandle Eastern Pipe Line Company
- CAG-35.
Docket No. RP92-123-001, Trunkline Gas Company
- CAG-36.
Docket No. RP91-203-012, Tennessee Gas Pipeline Company
- CAG-37.
Docket Nos. TM92-9-21-001 and RP91-41-012, Columbia Gas Transmission Corporation
- CAG-38.
Docket No. TA92-1-37-001, Northwest Pipeline Corporation
- CAG-39.
Docket No. TA92-1-7-001, Southern Natural Gas Company
- CAG-40.
Docket No. ST90-267-002, Transok Gas Transmission Company
- CAG-41.
Omitted
- CAG-42.
Docket Nos. RP84-82-012 and RP92-97-002, Tarpon Transmission Company
- CAG-43.
Omitted
- CAG-44.
Docket Nos. RP92-51-001, 004 and RP91-98-003, CNG Transmission Corporation
- CAG-45.
Omitted
- CAG-46.
Docket Nos. RP92-109-001 and 002, Northern Natural Gas Company
- CAG-47.
Omitted
- CAG-48.
Omitted
- CAG-49.
Docket No. RP87-15-032, Trunkline Gas Company
- Docket No. RP92-128-001, Panhandle Eastern Pipe Line Company
- CAG-50.
Docket No. RP92-122-001, Trunkline LNG Company
- Docket No. RP92-124-001, Trunkline Gas Company
- Docket No. RP92-125-001, Panhandle Eastern Pipe Line Company
- CAG-51.
Docket No. RP92-126-001, Trunkline Gas Company
- Docket No. RP92-127-001, Panhandle Eastern Pipe Line Company
- CAG-52.
Docket Nos. CP88-391-009, RP73-3-012, CP91-2819-001, RP82-55-051, RP85-148-012, CP72-255-004, CP89-759-010, CP90-2228-003, CP90-2229-003, RP87-7-075, CP90-2230-004, CP89-728-003, CP89-790-003, CP88-273-002, CP88-328-007, CP89-1916-004, RP90-8-009, RP90-51-002, CP90-499-002, CP84-146-009, CP84-336-007, G-12503-002, G-12059-002, RP82-55-051 and RP88-187-004, Transcontinental Gas Pipe Line Corporation
- CAG-53.
Docket No. CP88-391-010, Transcontinental Gas Pipe Line Corporation
- CAG-54.
Docket Nos. RP91-161-000, RP92-3-000 and RS92-5-000, Columbia Gas Transmission Corporation
- Docket Nos. RP91-160-000, RP92-2-000 and RS92-6-000, Columbia Gulf Transmission Company
- CAG-55.
Docket Nos. RP91-116-000 and 002, Raton Gas Transmission Company
- CAG-56.
Docket No. RP92-52-000, Nora Transmission Company
- CAG-57.
Docket No. PR92-7-000, Louisiana Intrastate Gas Corporation
- CAG-58.
Docket No. PR92-6-000, Delhi Gas Pipeline Corporation
- CAG-59.
Docket No. PR91-23-000, Midcoast Ventures I
- CAG-60.
Docket No. RM84-6-037, Refunds Resulting from Btu Measurement Adjustments
- CAG-61.
Omitted
- CAG-62.
Docket No. CP92-9-000, Arkansas Oil and Gas Commission, Tight Formation Determination, Arkansas-2, FERC No. JD92-01180T
- CAG-63.
Docket No. CP88-433-005, El Paso Natural Gas Company
- Docket Nos. RP89-48-018, CP89-1126-003, RP89-222-007, RP89-254-006, CP88-133-005, and CP89-886-004, Transwestern Pipeline Company
- Docket No. TA91-1-86-002, Pacific Gas Transmission Company
- Docket No. CP91-2468-001, Windward Energy & Marketing Company v. Pacific Gas Transmission Company and Pacific Gas & Electric Company
- CAG-64.
Docket No. CP92-260-001, Transcontinental Gas Pipe Line Corporation
- CAG-65.
Docket No. CP91-2394-001, Questar Pipeline Company
- CAG-66.
Docket Nos. CP92-71-000 and CP88-435-005, Northern Natural Gas Company
- Docket No. CP91-1031-001, Pacific Gas Transmission Company
- Docket No. CP88-138-025, Texas Eastern Transmission Corporation
- Docket No. CP88-686-002, Texas Gas Transmission Corporation
- Docket Nos. CP88-328-005, CP89-1916-005 and CP92-378-000, Transcontinental Gas Pipe Line Corporation
- Docket No. CP90-1777-000, TransColorado Gas Transmission Company
- Docket No. CP88-133-004, Transwestern Pipeline Company
- Docket No. CP86-586-002, Trunkline Gas Company
- CAG-67.
Docket Nos. CP91-1110-00 and 001, Colorado Interstate Gas Company
- CAG-68.
Docket No. CP92-479-000, New York State Electric and Gas Corporation
- CAG-69.
Docket Nos. CP91-780-000, 001, 002 and 003, Northwest Pipeline Corporation
- CAG-70.
Docket No. CP91-500-000, El Paso Natural Gas Company and Western Gas Interstate Company
- CAG-71.
Docket Nos. CP91-2322-000, 001, 002 and CP90-767-000, Paiute Pipeline Company
- CAG-72.
Docket Nos. CP89-362-002 and CP89-363-002, North Country Gas Pipeline Corporation
- CAG-73.
Docket Nos. RS92-86-000, RP92-137-000, RP92-108-000 and CP92-378-000, Transcontinental Gas Pipe Line Corporation
- CAG-74.
Docket No. RM88-13-000, Brokering of Interstate Natural Gas Pipeline Capacity
- CAG-75.
Docket Nos. RP91-111-004, 002, 003, RS92-68-000, CP91-2649-001, SA91-8-001, RP88-190-004, RP88-57-007, RP88-110-004, TM89-2-27-005, TA88-1-27-006 and TM89-2-27-004, North Penn Gas Company
- Docket Nos. RP85-178-072, 068, 067, 070, RP88-191-020, 028 and RP90-122-003, Tennessee Gas Pipeline Company
- Docket Nos. RP88-68-036 and RP87-7-073, Transcontinental Gas Pipe Line Corporation
- Docket No. RP88-217-016, CNG Transmission Corporation

CAG-76.

Docket No. CP90-134-003, Algonquin Gas Transmission Company
 Docket No. RP88-45-022, Arkla Energy Resources
 Docket No. CP88-311-010, CNL Transmission Corporation
 Docket No. RP88-186-001, *et al.*, Columbia Gas Transmission Corporation
 Docket No. CP90-1292-004, East Tennessee Natural Gas Company
 Docket No. RP89-50-022, Florida Gas Transmission Company
 Docket No. CP90-406-006, High Island Offshore System
 Docket No. CP89-2047-007, Kern River Gas Transmission Company
 Docket No. CP89-174-002, Midwestern Gas Transmission Company
 Docket No. CP89-1-015, Mojave Pipeline Corporation
 Docket No. CP89-1580-004, Northwest Pipeline Corporation
 Docket No. CP90-187-004, Oklahoma-Arkansas Pipeline Company
 Docket No. RP89-73-010, Pelican Interstate Gas System
 Docket No. CP88-136-031, Texas Eastern Transmission Corporation
 Docket No. CP88-686-008, Texas Gas Transmission Corporation
 Docket No. CP88-328-010, Transcontinental Gas Pipeline Corporation
 Docket No. RP91-197-003, United Gas Pipeline Company
 Docket No. CP90-1874-005, U-T Offshore System
 Docket No. CP90-273-008, Viking Gas Transmission Company
 Docket No. CP90-706-004, Wyoming Interstate Company, Ltd.

CAG-77.

(A) Docket No. CP91-1983-000, Algonquin Gas Transmission Company
 (B) Docket No. CP91-1111-001, Algonquin Gas Transmission Company
 Docket No. CP91-3236-001, Distrigas of Massachusetts Corporation

Hydro Agenda

H-1.
 Reserved

Electric Agenda

E-1.
 Omitted
 E-2.
 Docket No. ER91-195-004, Western System Power Pool. Order on rehearing.
 E-3.
 Docket No. RM92-10-000, Streamlining Electric Power Regulation. Notice of Proposed Rulemaking.
 E-4.
 Docket No. ER91-313-001, Pennsylvania Electric Company. Order on rehearing.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.

(A) Docket Nos. RP88-262-018, CP89-917-007, TA89-1-28-007, TA90-1-28-005, RP88-88-011 and RP91-229-002, Panhandle Eastern Pipe Line Company. Opinion No. 369-A and order on rehearing.

(B) Docket Nos. RP91-229-003, 004 and 005, Panhandle Eastern Pipe Line Company. Order on rates.

(C) Docket Nos. RP91-229-000 and 001, Panhandle Eastern Pipe Line Company. Order on rehearing.

(D) Docket Nos. RP87-103-012 and CP90-1050-000, Panhandle Eastern Pipe Line Company. Order on rehearing.

II. Producer Matters

PF-1.

Reserved

III. Pipeline Certificate Matters

PC-1.

Docket No. CP92-285-000, Richfield Gas Storage System. Order on application for construction.

PC-2.

Omitted

Lois D. Cashell,

Secretary.

[FR Doc. 92-12355 Filed 5-21-92; 4:20 pm]

BILLING CODE 5717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, June 1, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 22, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12493 Filed 5-22-92; 3:14 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 25, June 1, 8, and 15, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 25

Wednesday, May 27

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 1—Tentative

Monday, June 1

10:00 a.m.

Annual Briefing on Medical Use of Byproduct Material (Public Meeting)

1:30 p.m.

Briefing on Rulemaking Procedures for Design Certification Under Part 52 (Public Meeting)

3:00 p.m.

Status Report on Enhanced Participatory Rulemaking (Public Meeting)

Tuesday, June 2

10:30 a.m.

Briefing on Status of Licensed Operator Requalification Program and Complex Simulator Scenarios (Public Meeting)

Wednesday, June 3

10:00 a.m.

Briefing by INPO on National Academy for Nuclear Training (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.

Briefing by GE on Status of ABWR Application for Design Certification (Public Meeting)

Week of June 8—Tentative

Thursday, June 11

4:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of June 15—Tentative

Friday, June 19

10:00

Briefing on Requests to DOE for Technology Transfers under 10 CFR Part 810 (Closed—Ex. 1 & 4)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETING CALL (RECORDING): (301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION:

William Hill (301) 504-1661.

Dated: May 22, 1992.

Andrew L. Bates,

Office of the Secretary

[FR Doc. 92-12464 Filed 5-22-92; 2:15 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register

Vol. 57, No. 102

Wednesday, May 27, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

Correction

In notice document 92-9970 beginning on page 18124 in the issue of Wednesday, April 29, 1992, make the following correction:

On page 18126, in the third column, just before the FR Doc. line insert the following:

Marvin C. Meier,
Deputy Regional Forester.

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Pell Grant Program; 1992-93 Award Year Zero Pell Grant Index (PGI) Charts

Correction

In notice document 92-10343 beginning on page 19216 in the issue of Monday, May 4, 1992, make the following correction:

On page 19217, in the first column, under the *Zero PGI - Chart A* table, the 17 lines below the table should be a part of footnote 5 and should read as follows:

* Use chart A if—

For a dependent student:

(1) The parents of the student are married and both parents earned income of \$3,000 or more; or

(2) The parent of the student qualified as a head of household for Federal income tax

purposes and the parent earned income of \$3,000 or more.

For an independent student with dependents:

(1) Both the student and the spouse combined earned income of \$3,000 or more; or

(2) The student qualified as a head of household for Federal income tax purposes and the student earned income of \$3,000 or more.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Invitation for Proposals From Northeastern Organizations for Projects Designed To Foster the Expanded Adoption of Energy-Efficient Industrialized Housing

Correction

In notice document 92-11764 beginning on page 21237 in the issue of Tuesday, May 19, 1992, make the following correction:

On page 21239, in the first column, under *E. Eligible Applicants*, in the second line from the bottom, "Northwestern" should read "Northeastern".

BILLING CODE 1505-01-D

federal register

**Wednesday
May 27, 1992**

Part II

Department of Labor

**Occupational Safety and Health
Administration**

29 CFR Part 1910

**Occupational Exposure to Formaldehyde;
Final Rule**

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-225D]

Occupational Exposure to Formaldehyde

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Response to Court remand; final rule.

SUMMARY: By this action, the Occupational Safety and Health Administration (OSHA) hereby amends its existing regulation for occupational exposure to formaldehyde, 29 CFR 1910.1048, in response primarily to a remand by the U.S. Court of Appeals for the D.C. Circuit in *UAW v. Pendergrass*, 878 F.2d 389 (D.C. Cir. 1989). The final amendments lower the permissible exposure level for formaldehyde from 1 ppm (part per million) as an 8-hour time-weighted average (TWA) to an 8-hour time-weighted average of 0.75 ppm. The amendments also add medical removal protection provisions to supplement the existing medical surveillance requirements for those employees suffering significant eye, nose or throat irritation and for those suffering from dermal irritation or sensitization from occupational exposure to formaldehyde. In addition, certain changes have been made to the standard's hazard communication and employee training requirements. These amendments establish specific hazard labeling requirements for all forms of formaldehyde, including mixtures and solutions composed of 0.1% or greater of formaldehyde in excess of 0.1 ppm. Additional hazard labeling, including a warning that formaldehyde presents a potential cancer hazard, is required where formaldehyde levels, under reasonably foreseeable conditions of use, may potentially exceed 0.5 ppm. The final amendments also provide for annual training of all employees exposed to formaldehyde at levels of 0.1 ppm or higher.

DATES: Effective date: This amendment shall take effect on June 26, 1992. Certain provisions of the amended standard have delayed start-up dates which are detailed in paragraph (p) of § 1910.1048.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3647, 200

Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Background and History of the Regulation

On December 4, 1987, after an extensive rulemaking proceeding, detailed in the preamble to the final rule (52 FR at 46169-46171), OSHA issued a comprehensive regulation covering occupational exposure to formaldehyde at 29 CFR 1910.1048. This rule reduced the permissible exposure limits (PELs) to 1 part formaldehyde per million parts of air (ppm) as an 8-hour time-weighted average (TWA), and established a 2 ppm 15-minute short term exposure limit (STEL). The comprehensive standard also included an "action level" of 0.5 ppm, measured as an 8-hour TWA, and provisions for employee exposure monitoring, medical surveillance, recordkeeping, regulated areas, emergency procedures, preferred methods to control exposure, maintenance and selection of personal protective equipment, and hazard communication. OSHA's rule was based on the consideration of a wide range of new evidence including animal bioassays and epidemiological evidence. It was based in part on OSHA's recognition of formaldehyde as a potential occupational carcinogen as well as its irritating and sensitizing effects.

The standard was challenged in the United States Court of Appeals for the District of Columbia Circuit, pursuant to section 6(f) of the Act, 29 U.S.C. 655(f), by both industry and labor. Four unions, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the Amalgamated Clothing and Textile Workers Union (ACTWU), the International Ladies' Garment Workers Union (ILGWU) and the International Molders and Allied Workers Union, and Public Citizen, a public interest group, challenged the standard as being insufficiently protective. They contended that the PEL was not set low enough to eliminate all significant risk of harm from both cancer and from formaldehyde's irritant effects. They also objected to OSHA's decision not to include a medical removal protection (MRP) provision in the standard, and to a number of other aspects of the standard, including the setting of the action level, the lack of a requirement for annual medical examinations, and the provisions regarding labeling and training.

The Formaldehyde Institute (FI), on the other hand, sought review of the

hazard communication provisions in paragraph (m) of the standard. While challenging these provisions in court, the FI, along with others, petitioned OSHA for an administrative stay of the hazard communication provisions and reconsideration of these provisions. On December 13, 1988, after giving the public an opportunity to comment on this petition, OSHA stayed the hazard communication provisions, paragraphs (m)(1)(i) through (m)(4)(ii), and announced its intention to consider further regulatory action on these provisions (53 FR 50198). The effect of the stay was to continue the implementation of OSHA's generic Hazard Communication Standard (29 CFR 1910.1200) in effect with respect of formaldehyde. The administrative stay was subsequently continued to allow the Agency more time to resolve the issue (54 FR 35639, 8/29/89; 55 FR 24070, 6/13/90; 55 FR 32616, 8/10/90; 55 FR 51698, 12/17/90; 56 FR 10377, 3/12/91; 56 FR 26909, 6/12/91; 56 FR 37651, 8/8/91; 56 FR 57593, 11/13/91; 57 FR 2681, 1/23/92).

The Court of Appeals affirmed the final standard in most respects but concluded that OSHA had failed adequately to explain its cancer risk estimates and why it had not included medical removal protection (MRP) provisions in the standard. *UAW v. Pendergrass*, 878 F.2d 389 (D.C. Cir. 1989). The Court's decision required OSHA to better explain or reevaluate the risk assessment that led it to choose a PEL of 1 ppm. According to the Court, should OSHA conclude that a significant risk remains at 1 ppm, the Agency could then adjust the standard accordingly. The Court's decision also required OSHA to better explain or reevaluate its decision not to include an MRP provision in the standard.

The Court did not review the hazard communication provisions of the standard because they had been administratively stayed for reconsideration at the time. Because all of the provisions of the standard are interconnected, OSHA determined that the hazard communication provisions should be reconsidered together with the remand issues.

The Parties' Recommendation

Following the remand, parties to the litigation developed recommendations for revisions to the standard that they believed represented a reasonable resolution of all outstanding issues. Their recommendation, presented to OSHA on June 27, 1990, proposed to (1) lower the PEL to 0.75 ppm TWA; (2) include in the standard certain

provisions for MRP benefits; and (3) modify the standard's hazard communication provisions by revising labeling requirements for materials capable of releasing small amounts of formaldehyde and providing annual training in formaldehyde hazards for all employees exposed at or above 0.1 ppm (Ex. 278).

OSHA gave these recommendations careful consideration in developing the proposed amendments. On July 15, 1991, the Agency issued a proposed rule in response to the Court's remand (56 FR 32302). The proposal incorporated the substance of the recommendations of the parties to the litigation and requested public comment.

Properties, Manufacture, and Uses of Formaldehyde

The chemical "formaldehyde" is a colorless, pungent gas at room temperature with an approximate odor threshold of about 1 ppm [Ex. 73-120]. While the term "formaldehyde" is also used to describe various mixtures of formaldehyde, water, and alcohol, the term "formalin" more precisely describes aqueous solutions, particularly those containing 37 to 50 percent formaldehyde and 6 to 15 percent alcohol stabilizer. Most formaldehyde enters commerce as formalin. Alcoholic solutions of formaldehyde are available for processes that require low water content [Ex. 73-53]. Paraformaldehyde, a solid, also serves as a source of formaldehyde gas. Formaldehyde gas *per se* is not available commercially. The Chemical Abstracts Service (CAS) has assigned the number "50-00-0" to formaldehyde. This number applies to both formaldehyde gas and its aqueous or alcohol stabilized solutions.

Formaldehyde is a major industrial chemical, ranked 24th in production volume in the United States [Ex. 138-F]. In 1985, 5.7 billion pounds of 37 percent formaldehyde (by weight) was produced. Formaldehyde has four basic uses: As an intermediate in the production of resins; as an intermediate in the production of industrial chemicals; as a bactericide or fungicide; and as a component in the formulation of end-use consumer items. The manufacture of three types of resins: urea-formaldehyde, phenolformaldehyde, and melamine formaldehyde, accounts for about 59 percent of total consumption [Exs. 70-2; 73-52]. An additional seven percent is consumed in the production of thermoplastic acetal resins [Ex. 8]. About one-third is used in the synthesis of high volume chemical derivatives, including pentaerythritol,

hexamethylenetetramine, and butanediol [Ex. 8]. Two percent is used in textile treating and small amounts of formaldehyde are present as preservatives or bactericides in consumer and industrial products, such as cosmetics, shampoos and glues.

Some products prepared from formaldehyde contain unreacted formaldehyde residues which may be released from the product over its useful life. One example is urea-formaldehyde resin. Urea-formaldehyde resin is a generic name that actually represents an entire class of related formulations. Over 60 percent of ureaformaldehyde resin production in 1977 was consumed by particleboard and plywood manufacturing, where the resin is used as a glue. Urea-formaldehyde resins are also used in decorative laminates, textiles, paper, and foundry sand molds [Ex. 73-53].

Formaldehyde resins are used to treat textiles to impart wrinkle-resistance to clothing. About 60-85 percent of all apparel fabric is finished with formaldehyde-containing resins. As apparel manufacture is the sixth largest industry sector in the United States [Exs. 70-2; 70-14], this use is the major source of widespread exposure to formaldehyde because of the large number of workers potentially exposed.

Formaldehyde destroys bacteria, fungi, molds, and yeast. Its commercial importance as a fungicide is probably its greatest use as a disinfectant [Ex. 70-2]. Because of its bactericidal properties, formaldehyde is used in numerous cosmetic preparations.

Formaldehyde's uses can lead to widespread exposure in downstream industries. For example, when formaldehyde is present in disinfectants, preservatives, and embalming fluid, worker exposure can occur. Although formaldehyde changes into other chemicals when urea-formaldehyde resins and concentrates are produced, decay may occur, causing workers in numerous industries including wood products and apparel manufacture to be exposed to airborne formaldehyde when it offgasses from products manufactured with these resins.

Summary and Explanation of the Final Amendments

The final amendments to the formaldehyde standard in response to the Court remand and related issues are generally unchanged from OSHA's proposal published July 15, 1991, with only a few exceptions. As explained below, the most significant change is in the hazard communication provisions, paragraph (m).

A total of 34 comments were received. Most comments supported the amendments as proposed.

This preamble describes the specific points raised by commenters and the resolution of the issues involved.

Paragraph (c)—Permissible Exposure Limit (PEL)

This amendment to the final rule reduces the permissible exposure limit to 0.75 parts formaldehyde per million parts of air as an 8-hour time weighted average (0.75 ppm TWA). The basis for this change is the reexamination of the formaldehyde risk assessment that was undertaken in response to the Court remand. In its risk assessment accompanying the promulgation of the standard in 1987, OSHA calculated both the maximum likelihood estimate (MLE) and the upper confidence limit (UCL) for several mathematical models that it concluded best represented the carcinogenic action of formaldehyde. The MLE calculations, which statistically represent the most likely estimate of the risk, indicated that no significant risk remained at the PEL of 1 ppm. However, the UCL figures, which have only a 5% probability of understating the risk, indicated that a significant risk remained at 1 ppm.

OSHA did not accept either the MLE or the UCL as the single best prediction of risk for formaldehyde, but concluded that they defined a range in which the degree of risk was highly uncertain and effectively indeterminable based on the present state of scientific evidence. Since it was uncertain whether a significant risk remained below 1 ppm, OSHA included ancillary provisions in the standard with the expectation that they would further reduce any residual risk that remained at a PEL of 1 ppm (see discussion at 52 FR 46223-46224).

As instructed by the Court, the Agency reconsidered the record evidence applicable to its original finding that a 1 ppm PEL and ancillary provisions would prevent a significant risk of cancer in workers who are exposed to formaldehyde. OSHA continues to believe that neither the UCL nor the MLE can be used to establish a precise estimate of the remaining risk, but rather believes that they define a continuum within which the risk falls. In choosing where in the continuum to establish the PEL, OSHA reevaluated its conclusion that the ancillary provisions promulgated on December 4, 1987 would reduce the residual risk that remained at a PEL of 1 ppm. The court criticized OSHA's reliance on the ancillary provisions to reduce risk because OSHA could not

quantify the extent of exposure reduction, and hence risk reduction, these provisions would produce. 878 F.2d at 396. Although OSHA is convinced that the ancillary provisions contribute to risk reduction (52 FR 46253, 46275, 46285, 46287), the Agency is still unable to quantify that reduction. OSHA therefore believes it cannot rely on the ancillary provisions to reduce risk and that it is appropriate to reduce the PEL further in order to increase the certainty that workers are adequately protected. The Agency has determined that the PEL should be reduced to 0.75 ppm TWA, a point within the continuum defined by the MLE and UCL risk estimates. This PEL represents OSHA's best judgment of the exposure limit, along with the ancillary provisions, necessary to eliminate a significant risk of harm to employees.

Of the commenters who responded to the proposed amendments, only six addressed this issue specifically. Of these comments, five (Ex. 304-3, 304-14, 304-15, 304-24, and 304-27) ranged from expressing positive or conditional support to providing recommendations that would, in the commenters' estimation, strengthen the evidence for adopting the 0.75 ppm level.

The comment submitted by the Society of the Plastics Industry (Ex. 304-3) expressed unconditional support for the lower PEL. However, the National Electrical Manufacturers Association (Ex. 304-14), while supporting the lower PEL, cautioned against further reduction. Similarly, Monsanto (Ex. 304-15) supported the proposed PEL.

While not disagreeing with a PEL of 0.75 ppm, Du Pont (Ex. 304-24) suggested that OSHA supplement the cancer incidence information by incorporating risk data compiled by Casanova and Heck, and published by the Chemical Industry Institute of Toxicology (CIIT), which utilized pharmacokinetic modeling. OSHA considered these types of studies in preparing the risk assessment for the 1987 final standard for formaldehyde. The Agency's reasons for not including these types of studies are discussed in the preamble to the 1987 final standard (52 FR 46225) and remain the same. Moreover, since Du Pont does not claim that these data would justify a different PEL than 0.75 ppm, OSHA does not believe it is necessary or appropriate to reopen the rulemaking record at this stage of the proceedings to include them.

In a related comment, Duke Power (Ex. 304-24) suggested that factors other than carcinogenicity, e.g. irritant properties, should be used to justify the reduction of the PEL. OSHA agrees that irritant effects are involved and that

lowering the PEL will reduce incidences of these effects. Reducing the PEL below 1 ppm will reduce the residual irritant risk that remains at 1 ppm.

Only one comment, submitted by an individual worker, (Ex. 304-1) opposed the proposed action to lower the PEL, but offered no substantive information to support its opposition.

OSHA believes that the comments support the reduction in the PEL effected by this amendment. OSHA further concludes that this reduction in the PEL is economically and technologically feasible. See the discussion under Regulatory Impact and Regulatory Flexibility Assessment later in this preamble.

Paragraph (d)—Exposure Monitoring

Exposure monitoring informs the employer of the levels of formaldehyde to which employees are exposed. Such information is essential to determining whether the employer meets the obligation to keep employee exposures below the PEL and STEL and the obligations imposed by the standard when exposures exceed the action level. It permits the employer to evaluate the effectiveness of engineering and work practice controls, and identifies the need for additional controls. Exposure monitoring data are part of the information that must be supplied to the physician under the standard's medical surveillance provisions.

The monitoring provisions of the formaldehyde standard contain many of the same elements as the monitoring requirements in other OSHA health standards, including provisions for initial and periodic monitoring; the use of objective data in lieu of initial monitoring; use of representative sampling strategies; termination of monitoring; precision and accuracy of monitoring methods; and employee observation of monitoring and notification of the results. The final amendments do not affect these major components, which are described more fully in the preamble to the final standard (52 FR at 46254-46261). The general requirement that the employer monitor employees to determine their exposure to formaldehyde is unchanged, as is the exemption which allows the employer to utilize objective data to determine that measurements are not required for employees exposed below the action level or STEL.

A technical amendment was proposed for the monitoring provisions of the formaldehyde standard which is implemented in the final amendments. Specifically, paragraph (d)(1)(ii)(A), which contained an exception to the general exposure monitoring

requirement, is deleted, since it related to the definition of formaldehyde health hazard which had been included in paragraph (m)(1)(i) but which is also being deleted in this final rule. The intent of this section, however, is not changed.

The other exception in paragraph (d)(1)(ii)(A) which made reference to the need to monitor if there are employee health complaints, i.e., reports of signs and symptoms of formaldehyde exposures, has been removed from paragraph (d)(1)(ii)(A) and added as a new paragraph (d)(2)(iii). This has the effect of stating the requirement positively rather than indirectly as was originally done in paragraph (d)(1)(ii)(A). It is felt that this change clarifies the employer's obligation.

The new paragraph requires employee monitoring if there are reports of signs or symptoms due to formaldehyde exposure, and additionally specifies that monitoring of employees reporting signs of symptoms be done promptly. While the time period represented by "promptly" is not specified in order to provide employers some flexibility, OSHA intends that no more than a few days elapse between the report and the exposure monitoring, unless there are extenuating circumstances.

Duke Power (Ex. 304-24) suggested that "a few days" may not allow sufficient time for some employers to conduct monitoring, particularly those who would need to hire outside consultants to conduct the monitoring. OSHA believes that in the event this situation arises it would constitute extenuating circumstances and would be permissible, provided the employer can prove his or her diligence in attempting to meet the requirement.

Under existing paragraph (d)(1)(ii)(B), which is not being changed, objective data may be used to determine that the employee's exposure cannot exceed the action level or STEL. However, the data used must accurately reflect the affected employee's exposure (see discussion of objective data below.).

A related comment submitted by Owens Corning Fiberglas (Ex. L304-31) pointed out that sampling methods were not specified relative to determining if concentrations exceed levels which would require labeling and training. Neither the proposal nor the final amendments require sampling in such cases but allow the use of objective data which would indicate the potential formaldehyde release under reasonably foreseeable conditions of use. Thus, the standard does not actually pose the difficulty which is perceived by this commenter.

Paragraph (g)—Respiratory Protection

Issues related to respiratory protection were not part of the proposed amendments. However, two comments were submitted that were a logical outgrowth of the proposal to reduce the PEL. Wilson Safety Products (Ex. 304-12) pointed out that Table 1 of the 1987 standard (52 FR 46293), "Minimum Requirements for Respiratory Protection Against Formaldehyde," should be corrected to reflect the change in the PEL from 1 ppm to 0.75 ppm. OSHA agrees and has accordingly reproduced the table with the necessary corrections in paragraph (g). Footnote "2" regarding the use of half-mask respirators is retained. In addition, a technical correction has been made to paragraph (g)(3)(iv) to reflect the change in the PEL. This paragraph addresses the required frequency of replacement for canisters in atmospheres up to 10 times the PEL and 100 times the PEL, respectively. The allowable concentrations are changed from 10 ppm to 7.5 ppm and from 100 ppm to 75 ppm to reflect the 0.75 permissible exposure limit.

ISEA (Ex. 304-21) observed that the proposed amendments did not discuss the relative merits of engineering controls and respirators to protect against airborne formaldehyde. ISEA suggested that before OSHA prescribes engineering controls in lieu of respirators as the primary means of complying with the new PEL for formaldehyde, it should complete its ongoing rulemaking on Methods of Compliance. (See 54 FR 23991, 6/5/89.)

The methods of compliance section of the formaldehyde standard was not challenged before the D.C. Circuit and OSHA did not propose to reconsider it when it proposed the amendments now under consideration. The formaldehyde record was reopened only to resolve the remand issues and the outstanding issues related to the hazard communication provisions. Moreover, the Methods of Compliance rulemaking proposed to amend only the Air Contaminants standard (29 CFR 1910.1000) and the Respiratory Protection standard (29 CFR 1910.134). Since that rulemaking does not propose to amend substance-specific standards such as the formaldehyde standard, it provides no basis to defer action on these proposed amendments.

Paragraph (l)—Medical Surveillance (8)—Medical Removal

The final formaldehyde standard promulgated on December 4, 1987 did not include medical removal protection (MRP) provisions. In response to the Court remand on this issue, OSHA has

reexamined its reasoning, and carefully reviewed the record. On reconsideration, the Agency has concluded that MRP provisions can contribute to the success of the medical surveillance programs prescribed in the formaldehyde standard. Unlike some other substance-specific standards, the formaldehyde standard does not provide for periodic medical examinations for employees exposed at or above the action level. Instead, medical surveillance is accomplished in the final rule through the completion of annual medical questionnaires, coupled with affected employees' reports of signs and symptoms and medical examinations where necessary. This alternative depends on a high degree of employee participation and cooperation to determine if employee health is being impaired by formaldehyde exposure. OSHA believes these new MRP provisions will encourage employee participation in the standard's medical surveillance program and avoid the problems associated with nonspecificity and quick resolution of signs and symptoms that originally concerned the agency (see 52 FR 46282).

The final amendments specify those conditions covered by MRP. Conditions which are potentially covered by MRP are limited to significant irritation of the mucosa of the eyes and of the upper airway, respiratory sensitization, dermal irritation, or dermal sensitization (Ex. 42-87, p.175). In the case of dermal irritation and dermal sensitization, and these conditions alone, the medical removal provisions do not apply when the percent of formaldehyde content in the product suspected of causing the dermal condition is below 0.05%. This is because, on the basis of evidence in the record, only those products with higher concentrations have clearly been associated with dermal irritation or dermal sensitization (Ex. 85-56, p.5).

The existing formaldehyde standard requires that employers institute medical surveillance programs for employees exposed to formaldehyde. The purpose of such programs is to identify employees adversely affected by formaldehyde exposure, even if the exposure is below the PEL. In this way, the employee can be treated if necessary, potential causes can be identified, and remedial measures taken.

The medical surveillance program, and all procedures conducted under it, must be supervised by a licensed physician, and provided at no cost to employees. The program consists of screening formaldehyde-exposed employees, with follow-up medical examinations in those instances when the physician feels it necessary. As a

minimum, the screening consist of the administration of a questionnaire, which must include a work history, a smoking history, and elicit information on a variety of medical conditions associated with formaldehyde exposure. These conditions include eye, nose, or throat irritation, chronic airway problems or hyperactive airway disease, allergic skin conditions or dermatitis, and upper and lower respiratory problems.

All employees exposed to formaldehyde at or above the action level or STEL must be screened annually, by means of a medical questionnaire. In addition, employees exposed to formaldehyde must be screened with the questionnaire if they develop signs or symptoms of possible formaldehyde-related illness. If the responsible physician, upon evaluating the questionnaire, determines that a medical examination is necessary, the employee must be examined, and given any tests which the physician feels are appropriate.

When the physician has determined that a medical examination is necessary, it must be conducted promptly (as soon as possible, but within a few days at most) and the employer shall promptly comply with any subsequent recommendations for removal or restriction. If an employee reports signs or symptoms, and the physician determines that a medical examination is not immediately necessary, a two-week observation period begins. The purpose of this two-week observation period begins. The purpose of this two-week period is to provide an opportunity for evaluation of the problem and for possible remediation of the condition or causative factors. This provision is supported by information in the record that many formaldehyde-induced signs and symptoms often resolve themselves within a few hours or days (52 FR 46282). It will permit the employer to see whether signs or symptoms subside spontaneously or with minimal treatment, or to improve working conditions to alleviate the exposure, and the resulting condition, without unnecessary expenditure. If the signs or symptoms have not subsided or been remedied by the end of the two week period, the employee must be examined by the physician. If the signs and symptoms worsen during the two week period, the employee must be examined by the physician as soon as this fact is determined.

Any examination conducted in response to an employee report of signs or symptoms must include a medical and work history and any other element, including tests, which the examining

physician deems necessary. The standard does not specify any particular tests. This is due to the variety of conditions associated with formaldehyde exposure which are covered by these provisions.

Accordingly, the physician is given broad discretion in selecting any tests appropriate and useful under the circumstances.

If, in the examining physician's professional judgment, restrictions or removal are needed to alleviate the employee's symptoms of formaldehyde exposure, the physician's recommendations must be followed as soon as possible (a day or two at most). In the case of removal, transfer alternatives must be considered first. The employee must be moved to a job location with significantly less formaldehyde exposure (about twenty-five percent or greater reduction), which cannot exceed the action level. Transfer alternatives include possible job transfers that could be accomplished if the employee were to receive training for a short period of time. OSHA views a short period of time in this context as any period up to 6 months, the maximum period that MRP is available to employees under any circumstance. While the provisions require transfer, if possible, the type of training to be provided by the employer is not specified. OSHA does not intend that special job training programs be established. Job training opportunities such as the employer has afforded employees in the past should be sufficient to meet this requirement.

If there are no transfer alternatives, the employee must still be removed from the formaldehyde exposure for a period of up to six months or until a physician determines either that the employee is able to return to work or that the employee will not ever be able to return to work.

In addition to effecting actual physical removal, MRP assures that employees are provided with temporary economic protection. When an employee is removed from formaldehyde exposure, through transfer or other means, the employer must maintain the employee's earnings, seniority and benefits. This includes overtime, bonuses, increases and production rate payments the employee would normally receive. This must be continued until the employee is determined to be able to return to the original job, or is determined to be unable to return to any workplace formaldehyde exposure, or for six months, whichever occurs first. If the employee receives any compensation through workers' compensation or other

programs, MRP payments can be reduced by that amount. If the employee's removal permits the employee to obtain other employment, the employer's obligation is similarly reduced.

The determination as to whether the employee can return to the original job or is permanently unable to return to formaldehyde exposure is a medical decision, which must be based on a follow-up exam conducted by the employer's chosen physician. When the employee is returned to the original job, any subsequent signs or symptoms that may be reported are subject to another initial evaluation and determination as to whether an exam is necessary. If there is a determination that no exam is immediately necessary, a two-week period for evaluation and remediation is again initiated, and the employer proceeds from that point as described above.

When medical removal protection is part of a standard, OSHA usually provides a multiple physician review mechanism to assure successful operation of such programs. Multiple physician review provides an employee with an opportunity for a second medical opinion in a situation where a worker questions the recommendations resulting from a medical exam or consultation performed by a physician chosen by the employer. By doing so, it assures employee confidence in the soundness of medical determinations which may impact them significantly. As employee confidence is necessary to assure that employees will cooperate with the standard's medical surveillance provisions, multiple physician review is an integral component of the standard. A full discussion of multiple physician review is contained in the preamble to the lead standard (43 FR 52972, 52998) which is applicable here since the multiple physician review mechanism provided by these final amendments is similar to that in the lead standard in all respects.

The initial choice of the examining physician is made by the employer. After any examination or consultation concerning medical removal or restriction is made by the employer's chosen physician, the employee must receive a copy of the physician's written opinion within 15 days from the time the employer receives it. The employer must also inform the employee of the right to seek a second medical opinion if the employee does not agree with the employer's physician's opinion. The employee must act within fifteen days from these notifications, or the employer may decline to participate in, or to pay

for, any ensuing medical reviews. Otherwise, the multiple physician review mechanism must be provided by the employer without cost to the employee, including lost work time.

In seeking a second opinion, the employee may choose a physician to conduct appropriate examinations and tests and issue a written opinion concerning the employee's ability to work with formaldehyde. If the two physicians arrive at different conclusions, and quick (a few days at most) resolution is not possible, a third physician, jointly designated by the two physicians or by the employer and employee (or the employee's authorized representative) must be consulted. This third physician must be a specialist in the area of the body affected or the condition in question (e.g., dermatologist, allergist, pulmonary physician) or must be an occupational physician. The recommendation of the third physician shall be promptly (a few days at most) followed, unless the employer and employee agree to follow any one of the three physicians' recommendations.

The MRP provisions are in many respects similar to and consistent with the MRP mechanism of the lead standard, and a more detailed discussion of how the similar provisions work appears in the lead preamble (43 FR at 52972). For example, both MRP programs base removal decisions on the recommendation of a physician (although removal under the lead standard is also required if an employee's blood lead level exceeds a certain value), both programs include wage retention provisions, and both programs include a multiple physician review mechanism. To the extent the provisions of the formaldehyde MRP program are similar to those of the lead MRP program, OSHA adopts the legal justification supporting the lead standard, particularly the goal of encouraging employee participation in medical surveillance, in support of the MRP provisions of the formaldehyde standard. OSHA also intends that the provisions of the formaldehyde MRP program which are similar to those in the lead standard will operate and be enforced in a like manner.

Of course, OSHA recognizes that there are important differences between the lead MRP program and the MRP provisions of this standard. For example, formaldehyde MRP is limited to those employees exhibiting signs or symptoms of specified ailments; the formaldehyde MRP program includes a two-week remediation period for those employees not immediately referred to a

physician and formaldehyde MRP is not automatically triggered by a laboratory result, such as the blood lead measurements, relied upon in the lead standard. On the issues where the provisions of the formaldehyde MRP program are not consistent with those of the lead MRP program, OSHA expects that the lead standard will offer little enforcement guidance.

The Agency received a number of comments in connection with various aspects of the proposed MRP provision. Three commenters, Honeywell, Amoco Corporation, and Duke Power (Exs. 304-2, 304-18 and 304-24, respectively) raised the question as to whether the provision was intended to apply to office environments where employees may potentially be adversely affected by the off-gassing of formaldehyde from building materials and furnishings. OSHA believes that paragraph (a), scope and application, of the final standard indicates the Agency's intent to include all occupational exposures to formaldehyde under the standard, without regard to workplace environment. In particular, the standard's application to materials that release formaldehyde is relevant to offices and similar workplaces where formaldehyde exposures primarily result from off-gassing of building materials and furnishings. OSHA believes that to the extent that an employee in any occupational setting is exposed to formaldehyde at concentrations high enough to induce signs and symptoms of formaldehyde-related illness, that person should be protected by the MRP provisions of this standard. However, since formaldehyde exposures in offices are low, OSHA would expect MRP to affect employees in such environments only in exceptional cases.

MRP is directed toward employees suffering significant irritant effects attributable to formaldehyde exposures who, in the examining physician's judgment, will benefit from restriction or removal from work areas where formaldehyde is present. The MRP provisions are not designed to cover employees who have been determined to be permanently sensitized to formaldehyde. However, while that determination is being made, OSHA would expect that such employees receive MRP benefits. Sensitized employees often can resume work in areas with lower formaldehyde exposure without suffering adverse effects. The provision exempts from coverage dermal conditions (irritation or sensitization) caused by exposure to products containing less than 0.05 percent formaldehyde.

The commenters identified above also recommended that OSHA provide a cut-off level for airborne concentrations of formaldehyde below which the MRP provisions would not apply, e.g. 0.1 or 0.5 ppm. Because of the nature of the hazard presented by formaldehyde and the variation in individual susceptibility to its effects, OSHA does not believe that there is sufficient justification in the record to establish such a level. Moreover, OSHA does not feel that such a level is necessary, given the checks and balances built into the MRP provisions. For example, administration of the medical questionnaire precedes any action connected with MRP. On the basis of the employee's responses, the examining physician can make a determination regarding the need for medical examinations. If the physician decides that medical examinations are not immediately necessary, the employee begins a 2-week observation period. During this time the medical condition may be resolved either spontaneously or through remedial action such as removal of the formaldehyde source, a reduction in the exposure level or the intervention of minimal medical treatment. OSHA believes that this approach will allow employers an opportunity to resolve many employee medical problems associated with exposure to formaldehyde before medical removal would become necessary.

A comment submitted by ARCO Alaska, Inc. (Ex. 304-4) suggested that medical removal be triggered by "objective clinical evidence" rather than an employee's complaint of signs or symptoms of sensory irritation. ARCO Alaska requested that the standard permit the examining physician leeway to rely on evidence derived from a physical exam. OSHA believes that the proposed amendments already accommodate the concern expressed by the commenter. The MRP provisions do not preclude the examining physician from performing any type of medical exam that he or she feels is appropriate in reaching a decision as to whether the signs and symptoms presented by an employee are related to that employee's exposure to formaldehyde. The physician must first administer the medical questionnaire to employees exhibiting signs and symptoms of formaldehyde exposure. Following this, the physician is given broad discretion in selecting appropriate and useful medical tests.

In a related comment, the Amoco Corporation (Ex. 304-18) recommended that OSHA require the examining physician to be one who specializes in

occupational medicine. OSHA notes that the initial choice of an examining physician rests with the employer, and the standard does not preclude the employer from choosing a physician licensed in occupational medicine. However, as in previous rulemakings, the Agency does not feel that requiring physicians to be specialists in occupational medicine is practical or feasible, given the limited number of such physicians. (The number of occupational physicians is estimated to be around 5,000 according to the Institute of Occupational Medicine.) Also, OSHA believes that many licensed physicians who are not specialists in occupational medicine are fully qualified to make the medical determinations required under the MRP provisions. The final amendment does require that if a third physician is consulted with respect to the MRP provisions, this physician must be specialized in the area of the body affected or condition (e.g. dermatologist, allergist) or be an occupational physician. OSHA believes that this will not overly tax the number of occupational physicians available and will reserve the requirement to use one to those instances where there is a difference in professional opinion, the resolution of which might benefit from a physician trained in occupational medicine.

Additional comments were received regarding the economic protection clause of the MRP provisions. For example, the Amoco Corporation (Ex. 304-18) stated: "Worker protections such as these have traditionally been considered the province of labor relations and, in our opinion should remain so." OSHA notes that MRP is not a labor-relations provision but a mechanism to protect worker health. In promulgating the lead standard, (see 43 FR 52973, November 14, 1978), convincing evidence was presented that pointed out the painful dilemma confronting many lead-exposed workers. For examples, a worker could participate in the medical surveillance program and risk losing his or her job if abnormal medical findings were revealed that could be linked to occupational exposure to lead. On the other hand, a worker could resist participation in the medical surveillance program and thus lose the benefits that medical surveillance is designed to provide. To obviate the need for employees to have to make such decisions, OSHA required employers to protect employee benefits in the event a job transfer or removal became necessary. OSHA is not aware of

evidence in the formaldehyde record that suggests that the situation is different regarding formaldehyde workers. OSHA believes that formaldehyde workers need similar assurance that wages, seniority and other attendant benefits will be retained to secure their participation in medical surveillance.

The Photo Marketing Association International (L304-29) asserted: "[T]o the extent the allergic reaction prevents the employee from working or causes other injury, the employee has a remedy through the state worker's compensation laws." As noted earlier in this preamble discussion, where an employee has been determined to be unable to work in areas where formaldehyde is present due to permanent sensitization to the substance, the MRP provisions cease to apply. MRP is designed to bridge the short period while a symptomatic employee is waiting to recover or is being trained to do another job with lower formaldehyde exposure. Where an employee cannot work with formaldehyde and there is no other job available, the employee will need to rely on worker's compensation. In cases where employees are covered by MRP, if the employee receives any compensation through worker's compensation or other programs, the MRP payments can be reduced by that amount. However, in cases where the medical condition is reversible, OSHA believes that MRP is an appropriate measure for the reasons discussed above. The comment submitted by the Photo Marketing Association International goes on to urge OSHA to either delete the requirement of maintaining the affected employee's benefits or to exempt small businesses from these requirements. OSHA does not feel there is justification for an exemption for small businesses; the harm that may be inflicted on an employee will not differ with the size of the business and there is no evidence in the record to show that the MRP provisions would cause an unacceptable or infeasible burden on small businesses. The costs and benefits of MRP are addressed in the Regulatory Impact Analysis.

Organization Resources Counselors, Inc. (Ex. L304-19) raised objection to the requirement for a second medical opinion if the first medical opinion recommended that the employee be restricted rather than removed. ORC believed that a second opinion was not necessary in such a situation because the employee's compensation and benefits would not be at risk. This comment misconceives the purpose of

multiple physician review. That purpose is to assure that a second medical opinion can be sought by an employee who is dissatisfied with the recommendations of the physician chosen by the employer. OSHA believes that this provision is essential to assure that employees have confidence in the soundness of medical determinations that affect them. If an employee is suffering sensory irritation from formaldehyde and the employer's physician recommends restriction rather than removal, the employee may believe that this recommendation will not adequately address his or her symptoms and seek a second medical opinion, which might recommend removal. Thus, even if the first physician recommends restriction, the outcome of the multiple physician review process may be removal.

The Department of Veterans Affairs (Ex. 304-23) asked that OSHA specify the frequency and duration of the symptoms reported by the employee before medical removal would apply. OSHA believes this approach to be unrealistic. As the provision is written, restriction or removal of an employee is based on the physician's professional judgment. While frequency of symptoms may enter into the physician's decision with respect to determining the appropriate course of action, other factors such as the severity of symptoms as well as the employee's general state of health will also enter into this decision. Therefore OSHA does not feel that frequency should be mandated by this amendment.

Paragraph (m)—Hazard Communication

Generally, hazard communication requirements are governed by OSHA's generic Hazard Communication Standard (HCS), 29 CFR 1910.1200. The HCS requires the use of labels on containers of the hazardous substance, material safety data sheets (MSDSs) and employee information and training. The labels must include the identity of the hazardous chemicals, appropriate hazard warnings and the name and address of the chemical manufacturer, importer or other responsible party. The employer must retain MSDSs received from the manufacturer or distributor and make them available to employees working with the substance. The material safety data sheets include more extensive information than that on the label, such as the physical and chemical characteristics of the chemicals, the health hazards, the primary routes of entry, the PEL or other recommended exposure limit, whether the substance is listed in the NTP Annual Report on Carcinogens or has been found to be a

potential carcinogen by IARC, precautions for safe use and handling, control measures, and emergency and first aid procedures. In addition, the employer must make sure that employees are informed of any operations in their workplace where hazardous chemicals are present, and the location and availability of a written hazard communication program with supporting materials, such as MSDSs. Employees must be trained in methods that may be used to detect the presence or the release of a hazardous chemical in their work area, the physical and health hazards of the chemicals in the work area and measures employees can take to protect themselves from these hazards.

The formaldehyde standard contained specific hazard communications provisions in paragraph (m) that supplemented the requirements of the generic HCS in an attempt to accommodate the unique properties of formaldehyde. Those provisions have been the subject of much of the controversy surrounding the formaldehyde standard. In brief, the hazard communication provisions of the formaldehyde standard applied to formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde and materials capable of releasing formaldehyde into the air at concentrations reaching or exceeding 0.1 ppm. Employers were required, as a minimum, to address the following hazards: cancer, irritation, and sensitization of the skin and respiratory system, eye and throat irritation and acute toxicity. Manufacturers and importers of formaldehyde were required to provide downstream employers with an objective determination through labels and material safety data sheets if the items were considered to constitute a health hazard in accordance with the HCS under normal conditions of use. The labels were to comply with the requirements of the HCS, 29 CFR 1910.1200(f). As a minimum, the labels were required to identify the hazardous material; identify the responsible party; contain the language, "Potential Cancer Hazard;" and warn of all other hazards as defined in Appendices A and B of 29 CFR 1910.1200. Material safety data sheets were to be developed in accordance with paragraph (g) of the HCS.

The "de minimis exemption," which exempted materials capable of releasing formaldehyde in concentrations less than 0.1 ppm from hazard communication requirements, was an attempt to address the problem of

products which emit or "offgas" formaldehyde, and because of this fact do not fall under the "articles" exemption of the generic HCS. The de minimis exemption, contained in paragraph (m)(1)(i), proved confusing and controversial, because it implied, contrary to other provisions, of the standard, that any exposure above 0.1 ppm constituted a health hazard. The provision prompted a petition from the Formaldehyde Institute, which OSHA granted, to stay paragraphs (m)(1)(i) through (m)(4)(ii) (53 FR 50198). Having decided that its attempt to provide a workable de minimis exemption was not successful, the Agency desired to investigate means of clarifying the requirement and improving compliance. Upon reconsideration, OSHA proposed to amend paragraph (m). The proposed amendments were designed to provide hazard communication provisions that accommodate the unusual properties of formaldehyde and provide appropriate worker protection without undue burden on employers.

In order to clarify the intent of the standard, the text has been simplified. Wood products continue to be covered by the hazard communication requirements of this section. Although the language specifying wood products industry coverage no longer appears in the regulatory language, that industry continues to be covered by the hazard communication requirements of this section, because the exemption in paragraph (b)(6)(ii) of the generic hazard communication standard, 29 CFR 1910.1200, is not referenced and does not apply to this standard. (56 FR at 3207, 7/15/91.)

The following summarizes the changes in brief: Wood products continue to be covered under the hazard communication provisions of the formaldehyde standard; references to the generic Hazard Communication Standard in the stayed paragraphs of the formaldehyde standard (m)(1)(i) through (m)(4) were deleted; the definition of "health hazard" was deleted but trigger levels for action (0.1% or 0.1 ppm) were retained.

In developing the proposed amendments the Agency gave a great deal of consideration to finding acceptable means to apply hazard communication provisions in the formaldehyde standard given the known unique properties of the chemical. In particular, formaldehyde's ability to "offgas," that is, to release formaldehyde gas from solid materials such as wood products and textiles distinguishes it from other chemicals for which the generic Hazard

Communication Standard can readily apply. Solid materials capable of emitting formaldehyde do not neatly fall within the "article" exemption of the generic standard. An "article" as defined at 29 CFR 1910.1200 (c) means a manufactured item (i) which is formed to a specific shape or design during manufacture; (ii) which has an end function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which does not release, or otherwise result in exposure to, a hazardous chemical, under normal conditions of use. An article is not considered to release a hazardous chemical if only a few molecules or a trace amount are emitted. (See 52 FR at 31865, August 24, 1987.) With regard to formaldehyde, the amount of the chemical that is emitted is highly variable, depending on the amount of the chemical bound up in the material and the rate of decay or release which decreases over time. The rate of release is influenced by environmental factors such as temperature and humidity. Therefore to apply the generic hazard communication provisions without qualification would, in effect, require comprehensive labeling for all products capable of emitting more than a few molecules of formaldehyde without due consideration to other relevant factors.

To address this problem, OSHA proposed that, where the potential exposure is under 0.5 ppm, the label needs to indicate that formaldehyde may be present, give the name and address of a responsible party and indicate that physical and health hazard information is available from the employer and from MSDSs. Specific hazard information need not appear on the label, only the indication that such information exists, and directions and the location for obtaining such information. Where it cannot be documented that the concentration of formaldehyde will always remain at or below 0.5 ppm under reasonably foreseeable circumstances, the label information would be required to detail all appropriate hazards, including the information that formaldehyde is a potential cancer hazard.

The Agency felt that this "low potential exposure" labeling for solid materials which may offgas formaldehyde struck a balance, eliminating unnecessary hazard warnings where the potential may not be realized, and giving employees the appropriate warnings, via the label, MSDSs and training where there are low level emissions from products which may represent a health risk.

A considerable number of comments were received that questioned the Agency's proposed approach which, according to the commenters, established an artificial distinction between formaldehyde exposures from solid materials and other physical forms of formaldehyde. For example, in its comment the Association of Nonwoven Fabrics Industry stated:

To the best of our knowledge, OSHA has provided no evidence documenting that the health hazard of exposure to 0.1–0.5 ppm of formaldehyde from a solid material can be distinguished by the exposed individual to an equal exposure of 0.1–0.5 ppm of formaldehyde from another source. (Ex. 304–9).

A similar comment was submitted by the Industrial Coatings Group, Inc. With respect to labeling, the comment stated:

A distinction is drawn between solids and other materials for no apparent reason. Since the issue is the potential emission of a chemical, and since the property under discussion is the amount of formaldehyde capable of being released (not what form it is in) it seems peculiar to make a distinction based on the phase of the emission source. (Ex. 304–22).

Several other commenters supported the above view. (Exs. 304–8, 304–8, L304–19, L304–25, 304–27, and L304–34).

OSHA has therefore reevaluated the options with respect to hazard communication and agrees that the distinction between solids and other forms of formaldehyde is not appropriate. OSHA has concluded that labeling requirements should apply uniformly to all forms of formaldehyde. Specifically, where it is determined through monitoring or the use of objective data that employee exposures will not exceed levels above 0.5 ppm, the hazard warning label shall include the following information: The material or mixture contains formaldehyde; the name and address of the responsible party; and a statement that physical and health hazard information is readily available from the employer and from material safety data sheets. Where it cannot be documented that the concentration will always remain at or below 0.5 ppm under reasonable foreseeable conditions, the label information must detail all appropriate hazards, including information that formaldehyde is a potential cancer hazard. Formaldehyde-containing products incapable of causing exposures at or above 0.1 ppm or mixtures and solutions containing less than 0.1% formaldehyde will not be subject to any hazard communication requirements.

This provision should not be construed as precedential for other

rulemakings. Formaldehyde has unique properties and uses which make it necessary to distinguish its handling from that of the generic labeling requirements of the Hazard Communication Standard. The importance and effectiveness of the Hazard Communication Standard itself should in no way be diminished by the approach taken in these final amendments concerning formaldehyde.

OSHA notes that the foregoing should resolve other questions concerning the labeling requirements as proposed. For example, the BF Goodrich Company (Ex. 304-17) asked for a definition of "materials" and "solid materials" if OSHA continued to make such distinctions in the context of labeling requirements. OSHA believes that the final amendments clarify the fact that all physical forms of formaldehyde will be subject to identical labeling requirements as prescribed in paragraph (m)(1)(ii) and (m)(1)(iii) and therefore such definitions are unnecessary.

The Shipbuilders Council of America (Ex. 304-7) and Newport News Shipbuilding (Ex. 304-33) recommended that OSHA allow employers the option of posting signs in work areas affected by formaldehyde off-gassing in lieu of labeling, where such conditions are transient and short-lived. The source of the off-gassing or conditions of use of formaldehyde were not apparent from the comment. However, paragraph (f) of the Hazard Communication Standard, referenced in this section, provides for the use of signs in situations where it is impractical to affix labels. Specifically, paragraph (f)(6) of the Hazard Communication Standard allows employers to use signs, placards, process sheets, etc. in lieu of affixing labels to individual process containers as long as the alternative method conveys the identity of the hazardous chemical and appropriate hazard warning. OSHA believes that it is reasonable to allow the use of signs in work areas where employees may be incidentally exposed to formaldehyde for brief periods of time as long as the appropriate hazard warning is noted and employees are trained regarding the significance of information on the sign.

Updike, Kelly & Spellacy (Ex. 304-5) suggested that the labeling provisions should apply only to products produced 6 months or more after the effective date to eliminate the need for employers to repackage and relabel any existing inventory to meet the requirements of the provision. OSHA notes that labeling has already been an ongoing obligation under the generic Hazard Communication standard. Consequently,

the labels prepared in order to comply with the generic HCS will automatically be in compliance with this standard and therefore there is no need for repackaging or relabeling products by manufacturers, importers or employers.

The Amoco Corporation (Ex. 304-18) questioned whether manufacturers could anticipate a product's reasonably foreseeable conditions of use for labeling purposes. The comment asked for guidance on a number of points with respect to how the manufacturer or importer should calculate the rate of emission for labeling purposes.

The labeling requirement is intended to apply to the maximum potential emission under foreseeable conditions of use. It is the responsibility of the manufacturer and/or importer to establish what that value is and label accordingly. OSHA noted in the original rulemaking that it could be difficult for the manufacturer or importer to make this determination (52 FR at 46285), but OSHA nevertheless believes that this approach best provides for employees to have comprehensive hazard information without unnecessary burden to employers. If manufacturers or importers are uncertain over whether labeling is required under certain circumstances, they can assure compliance by labeling in accordance with conservative assumptions as to emission levels. OSHA therefore does not believe it is necessary or appropriate to give specific guidance on calculating emission rates beyond the "reasonably foreseeable conditions of use" language in the standard.

Finally, a considerable number of commenters (See Exs. 304-3, 304-7, 304-9, 304-11, 304-15, 304-17, L304-19, 304-24, L304-25, 304-27, L304-28 and 304-32) asked for clarification on whether the levels that trigger the labeling and training provisions are intended to be based on instantaneous exposures, short term exposures, or 8-hour time-weighted averages. OSHA intends for these levels to mean 8-hour time-weighted averages.

The proposed amendments to the formaldehyde standard specified that objective data could be used by the employer in determining anticipated levels of formaldehyde release. This provision remains unchanged in the final amendments and is consistent with paragraph (d)(1)(ii)(B), which is discussed above. Objective data consists of information which demonstrates that a particular product or material cannot release formaldehyde in concentrations exceeding the two labeling triggers of 0.1 ppm or above 0.5 ppm under reasonably foreseeable conditions. Examples of information

which might be used as objective data include representative personal samples, area samples, historical monitoring data, industry-wide studies, lab test results, and manufacturer's data. A full discussion of objective data is contained in the preamble to the 1987 final standard (see 52 FR at 46255-46256).

Paragraph (n)—Employee Information and Training

The final amendments require that employee training be conducted on an annual basis for all employees exposed to formaldehyde concentrations of 0.1 ppm or greater. The 1987 final standard requires initial training for persons exposed at 0.1 ppm or above the action level or STEL. The content of the training is not affected by this final amendment.

OSHA has determined that training for employees exposed to lower concentrations of formaldehyde is necessary for a number of reasons. Training is one of the three main elements of hazard communication. The success of risk management programs requires that employees be aware of hazard, work practice and other information essential to understanding the risks associated with their exposure, and the means of reducing that risk. The continued awareness on the part of the employee depends on constant reminders, such as hazard warning labels. Periodic training becomes especially important for formaldehyde, given the importance of the ancillary provisions in reducing risk, and the exemptions to the labeling requirements, which are discussed above. Although employees will have access to material safety data sheets, MSDSs are a passive source of information. It is anticipated that training will play a more essential role in employees' awareness of the specific hazards in their workplace and control measures employed. This is particularly true for illiterate or non-English speaking workers.

Annual training is also important for successful medical surveillance and MRP. These provisions will only be effective if employees know what signs or symptoms are related to the health effects of formaldehyde, if they know how to properly report them to the employer, and if they are periodically encouraged to do so. The record indicates that signs or symptoms are not uncommon in employees exposed to levels of formaldehyde below the action level and the STEL (52 FR at 46280). It is felt that annual training for employees exposed to lower concentrations of formaldehyde will help assure the

continued effectiveness of the ancillary provisions in reducing the risks of formaldehyde exposure. It will also help identify and assist those employees actually suffering health effects, through improving employee corporation and participation in medical surveillance programs.

Several comments were submitted concerning the employee information and training provision. The Food and Allied Service Trades (304-6) suggested that OSHA strengthen the training program for workers exposed to formaldehyde and recommended several subject areas that should be included. This was not an issue for consideration in the proposed amendments, and OSHA has no evidence that the training provisions of the final formaldehyde standard issued in 1987 are not sufficient. The intent of paragraph (n) as contained in the proposed amendments was to clarify when training is to be conducted for employees exposed to formaldehyde and the frequency of such training. The final amendment requires annual training for all formaldehyde-exposed workers at levels at or above 0.1 ppm.

The Shipbuilders Council of America (Ex. 304-7) and Newport News Shipbuilding (Ex. 304-33) asked OSHA to extend to the start-up date for training by an additional four months beyond the proposed effective date to coincide with the 6 months allowed for the labeling provisions. The commenters' reasoning was that much of the requirement for training would be based on the presence of the manufacturer's label. OSHA agrees that warning labels must be covered under training. However, labeling is broadly required under the HCS and there is no need to delay training simply because the content of the labels may change. In other words, labels conforming to the Hazard Communication Standard will also comply with those required by this amended standard. As labels or other information change, the training, which must be conducted annually, can be modified as needed. Therefore, OSHA feels that the time allocated for the implementation of initial training is appropriate.

The other concerns regarding the training provisions dealt with requests that the 0.1 ppm trigger level that initiates training be specified as an 8-hour TWA. As discussed earlier in this preamble, OSHA interprets the 0.1 ppm trigger to be an 8-hour TWA.

Paragraph (p)—Dates

The final amendments become effective 30 days following publication in the Federal Register. This period

enables employers to familiarize themselves with these new provisions. In addition, individual provisions, where appropriate, have delayed start-up dates.

Employers will be given one year to install any additional engineering controls necessary to achieve the new PEL of 0.75 ppm TWA. Many employers will be able to meet this new PEL presently and will not need any more time; with this in mind, this start-up date section requires that compliance be accomplished as quickly as possible, but no later than a year from the effective date of the amendment.

In those cases where respiratory protection is required, such protection must be provided to employees in compliance with paragraph (g) as quickly as possible but no later than 3 months after the effective date of the amendment. It is felt that this extra time may be needed because some employers may have situations where no respiratory protection was needed to meet the PEL of 1 ppm, while the new PEL of 0.75 ppm may require implementation of respiratory protection programs, at least temporarily until they can achieve compliance with the PEL through the use of engineering controls. Therefore a period of three months is considered necessary for these employers to properly select the appropriate respirator to protect their employees and complete fit testing and other necessary elements of an effective respiratory protection program.

The standard's medical surveillance provisions have been in effect for over two years. Employers have already implemented these provisions, including the administration of medical questionnaires to employees reporting signs or symptoms of formaldehyde exposure or employees exposed above the action level or STEL, medical examinations where appropriate and the receipt of physician's written opinions. Employers may need some additional time to implement the medical removal provisions and to ascertain how to adapt them to their particular workplace. The Agency believes that a six month period is appropriate under the circumstances.

Paragraph (m) of the formaldehyde standard as well as the hazard communication standard already impose general hazard communication requirements on employers handling formaldehyde-containing products in their workplaces. The final amendments would alter somewhat the labeling requirements for containers of certain products capable of releasing small amounts of formaldehyde. The Agency believes that employers handling

formaldehyde products such as those described above may need some additional time to formulate the new labels. Six months is believed to be an appropriate amount of time to accomplish this task in view of the substantial amount of inventory that may be on hand. Moreover, this delayed start-up date would not adversely affect employee health since formaldehyde products would still need to be labeled in the interim in compliance with OSHA's generic hazard communication standard.

The amendments to the final standard increase the frequency with which employees exposed to formaldehyde between 0.1 ppm and 0.5 ppm must receive training. Following initial training, such employees must receive training annually. OSHA has concluded that a two month start-up period for this provision is appropriate to allow the employer to determine which employees must be trained more frequently.

Republication of Standard

In addition to the revisions and amendments discussed above, OSHA is republishing at the end of this document the revised formaldehyde standard in toto. The Agency determined that the republication would be a helpful tool for the public to ascertain information and compliance obligations based on the entire standard as revised. The preamble to the 1987 final rule is not reprinted herein; interested persons are encouraged to refer to the preamble to the original rule for explanations of provisions not changed in this promulgation (see 52 FR 46168, 12/4/87).

Regulatory Impact and Regulatory Flexibility Assessment

Executive Order 12291 (46 FR 13197, February 19, 1981) requires that a regulatory analysis be prepared for any proposed regulation that meets the criteria for a "major rule"; likely to result in an annual impact on the economy of \$100 million or more; have a major increase on cost or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or, have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) requires an analysis of whether a regulation will have a significant economic impact on a substantial number of small entities. Finally, the

Occupational Safety and Health Act requires proof of economic and technological feasibility.

Consistent with these requirements, OSHA has prepared a Regulatory Impact and Regulatory Flexibility Assessment. This regulatory assessment is a supplement to the final Regulatory Impact Analysis (RIA) currently in the docket [Ex. 206].

Industry Profile

As described in the 1987 RIA [Ex. 206], OSHA estimates that approximately 2.2 million workers are exposed to formaldehyde at levels of 0.1 ppm or greater. As a result of the introduction of the 1.0 ppm PEL, no workers should currently be exposed at levels above 1.0 ppm. An estimated 83,818 workers are exposed at levels between 0.75 ppm and 1.0 ppm. The balance of about 2.1 million workers are estimated to be exposed at levels between 0.1 and 0.75 ppm. The largest number of exposures

currently is in the apparel industry, with an estimated 941,300 exposed workers, 58,831 of which have exposures between 0.75 and 1.0 ppm.

For the purpose of this analysis, it is assumed that (1) establishments are in compliance with the existing OSHA standard and (2) exposure levels have responded as projected in the 1987 RIA.

OSHA's estimates of employee exposures to formaldehyde in 1991 are based upon the exposure estimates in the 1987 RIA with two modifying assumptions:

(1) As projected in the 1987 RIA, all employees previously exposed above 1.0 ppm are now exposed at 0.75 ppm;

(2) Exposure levels in textile finishing, laboratories and formaldehyde production are now below 0.75 ppm due to improved work practices for complying with the 1.0 ppm rule as well as other rules which have been implemented since the 1987 formaldehyde rule. Therefore, of the

2,156,801 employees currently exposed to formaldehyde, 1,950,429 employees are exposed between 0.1 ppm and 0.5 ppm.

the remaining employees, 60% (122,554) have exposure levels between 0.5 ppm and 0.75 ppm and 40% (83,818) are exposed between 0.75 ppm and 1.0 ppm.

Only establishments with exposures between the new PEL of 0.75 ppm and the existing PEL of 1.0 ppm would be affected by the new PEL. These establishments are expected to target average exposures at 75% of the new PEL, or 0.56 ppm¹. The number of establishments and exposed employees in affected industries are displayed by exposure level in Table I.

¹ This targeting strategy is consistent with the assumption made in the RIA of the 1987 Standard, in which it was assumed employers would reduce exposures to 75% of the required PEL [Ex. 206, p. V-3].

TABLE I.—NUMBER OF AFFECTED ESTABLISHMENTS AND EMPLOYEES BY FORMALDEHYDE EXPOSURE LEVEL

SIC	Industry	Establishments				Exposed employees			
		0.75–1.0 ppm	0.5–0.75 ppm	0.1–0.5 ppm	Total	0.75–1.0 ppm	0.5–0.75 ppm	0.1–0.5 ppm	Total
2435	Hardwood Plywood.....	33	73	94	200	787	1,242	8,699	10,728
2492	Particleboard.....	8	22	16	46	720	1,021	2,836	4,577
2499	Fiberboard.....	3	12	0	14	294	524	335	1,153
25	Furniture.....	1,323	1,507	2,645	5,475	11,612	12,643	235,095	259,349
2821	Resins.....	0	51	46	97	490	875	8,335	9,700
332, 336	Foundries.....	718	1,765	520	3,002	6,085	10,594	43,322	60,000
806, 807	Laboratories.....	0	3,998	8,167	12,165	0	12,220	24,441	36,661
7261	Funeral Services.....	0	0	15,000	15,000	0	0	30,000	30,000
226	Textile Finishing.....	0	685	0	685	0	19,125	10,298	29,423
23	Apparel.....	2,869	2,869	17,211	22,948	58,831	58,831	823,637	941,300
2869	Formaldehyde Production.....	0	16	33	49	0	480	3,401	3,881
3079	Plastic Molding.....	500	500	4,000	5,000	5,000	5,000	90,000	100,000
2436	Softwood Plywood.....	0	0	250	250	0	0	31,100	31,100
2611	Pulp Mills.....	0	0	43	43	0	0	12,800	12,800
2621	Paper Mills.....	0	0	299	299	0	0	100,100	100,100
2631	Paperboard Mills.....	0	0	222	222	0	0	43,000	43,000
2642	Envelopes.....	0	0	296	296	0	0	19,000	19,000
2653	Corrugated & Solid Fiber Boxes.....	0	0	1,491	1,491	0	0	67,400	67,400
2851	Paints, Pigments.....	0	0	1,441	1,441	0	0	27,600	27,600
2865	Cyclic Crudes, Cyclic Intermediates, Dyes & Organic Pigments.....	0	0	189	189	0	0	16,000	16,000
2879	Agricultural Chemicals, NEC.....	0	0	330	330	0	0	9,700	9,700
2891	Adhesives & Sealants.....	0	0	683	683	0	0	10,900	10,900
2899	Chemicals & Chemical Preparations, NEC.....	0	0	1,439	1,439	0	0	23,100	23,100
3291	Abrasive Products.....	0	0	374	374	0	0	17,000	17,000
3293	Gaskets, Packaging & Sealing Devices.....	0	0	474	474	0	0	21,800	21,800
3296	Mineral Wool Insulation.....	0	0	179	179	0	0	15,500	15,500
3634	Electric Housewares & Fans.....	0	0	263	263	0	0	29,300	29,300
3643	Current-carrying Wiring Devices.....	0	0	415	415	0	0	31,900	31,900
3644	Noncurrent-carrying Wiring Devices.....	0	0	226	226	0	0	18,100	18,100
3694	Electrical Equip. For I.C. Engines.....	0	0	433	433	0	0	32,300	32,300
3792	Mobile Homes Manufacturing.....	0	0	1,655	1,655	0	0	11,200	11,200
7395	Photofinishing Labs.....	0	0	3,589	3,589	0	0	71,742	71,742
806	Hemodialysis.....	0	0	10,500	10,500	0	0	31,500	31,500
822	Biology Instructors.....	0	0	22,575	22,575	0	0	28,950	28,950
822	Veterinary Anatomy.....	0	0	19	19	0	0	38	38
	Total.....	5,453	11,496	95,117	112,066	83,818	122,554	1,950,429	2,156,801

**Totals may not add due to rounding.

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

Nonregulatory Alternatives

As elaborated in the 1987 RIA [Ex. 206, p. VII-1-14], market mechanisms and actions by other governmental bodies have been inadequate in eliminating significant risk to workers from formaldehyde exposure. For this reason, both a lower PEL and annual training for all workers exposed at 0.1 ppm and above are being instituted. In the case of workers leaving employment for medical reasons, workers compensation or unemployment insurance systems can provide income to workers. These systems, however, vary from state to state and do not provide for complete substitution of wages and benefits. Without medical removal and wage protection safeguards, workers may continue to suffer acute formaldehyde-related symptoms out of fear of job loss.

Technological Feasibility

The feasibility of a 0.75 ppm PEL was not explicitly addressed in the previous record. However, based upon previous contractors' reports and consistent with OSHA's analysis of compliance with the 1.0 ppm PEL, OSHA believes a 0.75 ppm PEL is technologically feasible.

In the 1987 RIA, OSHA judged that it was technologically feasible to achieve compliance with a 1.0 ppm PEL [Ex. 206, p. III-2]. To assure compliance with a 1.0 ppm PEL, OSHA estimated that those establishments with exposures above 1.0 ppm would lower average personal exposures to 75% of the required PEL, or 0.75 ppm². Those establishments with

exposures below 1.0 ppm were judged to be unaffected by the new PEL [Ex. 206, IV-1]. This analysis is consistent with the methodology in the 1986 Heiden report [Ex. 133], which assigned no costs of engineering controls to establishments with exposures below 1.0 ppm.

In this analysis, those establishments with pre-1987 exposures between 1.0 ppm and 0.75 ppm are assumed to lower their exposures to 75% of the new PEL, or 0.56 ppm. These establishments generally had fewer structural or process-inherent exposure problems than those establishments which had exposures above 1.0 ppm in 1987 [Ex. 206, p. IV-19, 20, 30, 32, 46, 51, 52, 58, 59, 61]. Feasibility is not expected to be a problem for these establishments.

Four of the industries—textile finishing, apparel manufacturing, formaldehyde production and plastic molding—are estimated to have potential exposures in excess of 0.5 ppm, but below 1.0 ppm. Both the 1985 Heiden report [Ex. 77-19] and the 1981 Ashford report [Ex. 70-1], identified feasible strategies for reaching exposure levels below 1.0 ppm for these industry sectors.

In the preliminary Regulatory Impact Analysis of July 1991, OSHA estimated 152 nitrogen fertilizer plants have exposures between 0.5 and 1.0 ppm. Since then, OSHA had obtained new data from both the Fertilizer Institute [Ex. L304-35] as well as from OSHA's IMIS database. These data indicate that current work practices have reduced employee exposure to below 0.1 ppm. Thus, the final standard should have no affect upon the nitrogenous fertilizer industry (SIC 2873).

Costs of Compliance

Engineering Controls

Sources available in the record for analyzing the incremental cost of moving from the current 1.0 ppm PEL to a PEL of 0.75 ppm are limited. While a shift to a new technology would be the only means of achieving compliance with a 0.5 ppm PEL in some industries, this is not necessarily the case with respect to a 0.75 ppm PEL. For the purposes of this analysis, OSHA concludes that the technology necessary to comply with a 0.75 ppm PEL would be

exposed to formaldehyde levels of 0.5 ppm or less [Ex. 206, p. II-13, IV-55]. The introduction of engineering controls since the 1987 rule should have moved more employees below 0.75 ppm. OSHA has conducted 101 inspections and 94 exposure readings within the foundry industry since the standard took effect. These data indicate that the majority of foundries inspected had exposures below 0.75 ppm and therefore support the conclusion that a PEL of 0.75 ppm is technologically feasible [Ex. 301-1].

generally the same as that used to bring those plants with exposures above 1.0 ppm prior to 1987 into compliance with a 1.0 ppm PEL.

Unit price assumptions and revenue data within this analysis are based upon the 1987 Producer Price index, as they were for the 1987 Regulatory Impact Analysis.

Foundries

In the 1987 RIA [Ex. 206, p. IV-54], it was estimated that 1,047 foundries had exposures above 1.0 ppm and an additional 1,435 had exposures between 0.5 ppm and 1.0 ppm. It was projected that as a result of the 1.0 ppm PEL, average exposures in the first group would be lowered to 0.75 ppm, and that the second group would remain unchanged. OSHA estimates that half of the second group, or 718 foundries, would need to respond to the new PEL of 0.75 ppm.

As discussed in the 1987 RIA [Ex. 206, p. IV-53], OSHA found that this group is comprised largely of foundries using the shell core process. To comply with the standard, firms would incur capital costs for local exhaust ventilation of \$10,000, with an annual operating cost of \$900 per machine, and would have an average of 3 affected machines per plant [Ex. 206, p. IV-52], for a total capital cost of \$21,540,000 ($718 \times 3 \times \$10,000$) and annual operating costs of \$1,938,600 ($718 \times 3 \times \900). Annualizing the capital cost at 10% over a 10 year expected equipment lifetime results in an annualized cost of \$3,505,536.³ Total annual costs therefore, are projected to be \$5,444,136 (annualized costs plus annual recurring operating costs). It is possible that providing controls for only a portion of the machines would reduce exposures sufficiently to achieve compliance with the proposed PEL, but OSHA conservatively assumes that controls on all three would be necessary.

Hardwood Plywood

In the 1987 RIA [Ex. 206, p. IV-36] it was estimated that forty hardwood plywood establishments had exposures above 1.0 ppm and would lower exposures to 0.75 ppm as a result of the 1.0 ppm PEL. Sixty-six establishments unaffected by the 1.0 ppm PEL were estimated to have exposures between 0.5 ppm and 1.0 ppm. OSHA estimates that half of these establishments, or 33, would be affected by a 0.75 ppm PEL.

³ The annualized cost is derived by applying a cost recovery factor (of 0.163 based on an equipment life expectancy of 10 years and a 10% cost of capital) to total capital costs.

² The assumption within the 1987 Regulatory Impact Analysis that establishments previously above 1.0 ppm would be reduced to 0.75 ppm in response to the 1.0 ppm PEL was a conservative assumption in two respects. First, as a technological matter, in a number of industries, the engineering controls described were shown to be capable of lowering exposures by a factor of 10 or more, in many cases to below 0.5 ppm [Ex. 128, p. 6, 15; 1, Chap III]. However, due to difficulties encountered in lowering exposures in some establishments within certain industries [Ex. 206, Chap III], OSHA employed a generic assumption of 0.75 ppm as the exposure level attainable by establishments after implementing engineering controls.

All exposures above 1.0 ppm were projected to drop to 0.75 ppm. Targeting controls to achieve an effective 0.75 ppm limit provided a critical buffer for unforeseen exposure problems that may arise. Thus, in order to insure compliance with the 1.0 ppm PEL, exposures were projected to drop to 0.75 ppm or lower.

In the 1987 RIA, OSHA indicated that for some foundries, complying with a PEL of 0.5 ppm would not be feasible [Ex. 206, p. III-2]. The Agency's position was summarized in the Foundry section of the technological feasibility analysis: "OSHA therefore concludes that achieving a 0.5 ppm is not feasible by the use of engineering controls." However, OSHA believes that achieving a 0.75 ppm TWA in the foundry industry is technologically feasible. Evidence in the existing record indicates that the majority of foundry employees were

OSHA assumes that plants with exposures between 0.75 ppm and 1.0 ppm have exposure problems similar to those plants which were out of compliance with the 1.0 ppm PEL. These plants were estimated to require fan replacement at an incremental capital cost of \$2,000 and an incremental annual operating cost of \$100 per plant [Ex. 206, p. IV-34]. The costs to come into compliance with a 0.75 ppm PEL in this industry are therefore estimated to be \$66,000 in capital costs and \$3,300 in annual operating costs.

In the 1987 RIA, OSHA stated that some plants could comply with a 1.0 ppm PEL with ventilation alone, others would also need to convert to low-emitting ureaformaldehyde (LEUF) resins [Ex. 206, p. IV-30-35]. While it is possible that some or all of the plants discussed in the previous paragraph could achieve compliance with a 0.75 ppm PEL through increased ventilation alone, OSHA conservatively assumes that these plants would also need to convert to LEUF resins to assure compliance. The 1987 RIA noted a gradual shift to LEUF resins in the hardwood plywood industry [Ex. 206, p. IV-32, 35]. However, establishments with the highest formaldehyde exposures currently are also the least likely to have converted. Due to uncertainty regarding these plants, OSHA is employing the conservative assumption that LEUF resins would be introduced directly as a result of this rule. Using the same method of estimating cost as was used in the 1987 RIA [Ex. 206, p. IV-35], it is estimated that an additional 235 million square feet (MMSF) of board production would need to be converted to LEUF at a cost of \$2,750 per MMSF, or an annual operating cost of \$646,250 ($\$2,750 \times 235$). The total costs associated with complying with a 0.75 ppm in the hardwood plywood industry are therefore estimated to be \$66,000 in capital costs and \$649,550 in annual operating costs for the 33 plants affected within this industry. Annualizing the capital cost at 10% over a 10 year expected equipment lifetime results in an annualized cost of \$10,741. The total annual costs, therefore, are projected to be \$660,291.

Particleboard

In the 1987 RIA [Ex. 206, p. IV-24, 26] it was estimated that 14 out of 46 plants had exposures above 1.0 ppm, and would lower exposures to 0.75 ppm as a result of the standard. An additional 16 plants were estimated to have exposures between 0.5 and 1.0 ppm, 8 of which are estimated to have exposures between 0.75 and 1.0 ppm. Assuming

these plants would need to employ ventilation similar to those with exposures previously above 1.0 ppm, these plants would need additional ventilation at a capital cost of \$215,320 per plant and annual operating costs of \$53,830 per plant [Ex. 206, p. IV-21], or a total capital cost of \$1,722,560 and a total annual operating cost of \$430,640. Based upon the annualized capital cost of \$280,339 and the recurring annual operating cost, total annual costs are \$710,979.

Medium Density Fiberboard (MDF)

The 1987 RIA [Ex. 206, p. IV-27, 29, 31] projected that 9 MDF establishments would lower exposures to 0.75 ppm as a result of the 1.0 ppm PEL. It is estimated that 5 additional establishments have exposures between 0.5 and 1.0 ppm. It is estimated that approximately half, or 3 of these establishments would be affected by a 0.75 ppm PEL.

In the 1987 RIA it was estimated that the capital costs of lowering exposures to 0.75 ppm through additional ventilation would be \$105,534 per plant, with annual operating costs of \$63,486. Applying these costs to the 3 affected plants, OSHA estimates that cost of additional ventilation in this industry would be \$316,602 in capital costs, and \$190,458 in annual operating costs. The annualized cost of capital is equal to \$51,526 using the 10%, 10 year expected equipment lifetime cost recovery value. Thus, the total annualized costs for this industry is projected to be \$241,984.

Furniture

In the 1987 RIA, it was estimated that 184 plants had exposures above 1.0 ppm and would lower exposures to 0.75 ppm in response to the 1.0 ppm PEL. These were all facilities producing both furniture and board ("integrated" plants), with hazardous exposures in board production operations rather than furniture operations. There were an additional 2,649 establishments that had exposures estimated between 0.5 and 1.0 ppm, mostly furniture assembly plants with relatively isolated exposures above 0.5 ppm [Ex. 206, p. IV-43-44].

It was assumed that one-half of these, or 1,323 plants, have exposures between 0.75 ppm and 1.0 ppm. However, as noted in the 1987 RIA [Ex. 206, p. IV-44], in many of these plants, the exposure problems were due to improper use of non-use of existing ventilation systems. Poor work practices may also be responsible. In this regard, more training, not additional engineering controls, would remedy the exposure problems.

To the extent that available ventilation is utilized, there would be an

increase in operating costs for these furniture plants. One basis for estimating these costs is the cost of annual exhaust ventilation employed by Ashford [Ex. 70-1]. The annual operating cost related to increased usage was estimated to be approximately \$864 per establishment. However, OSHA assumes that this additional per plant cost would apply to only half of annual work days, or \$432 annually. This cost would be incurred at 1,323 plants and the estimated cost of compliance at these plants would be \$571,536 annually.

In approximately 214 plants (one half the integrated plants unaffected by the 1.0 ppm PEL) additional ventilation would likely be necessary to comply with a 0.75 ppm PEL. Based upon the analysis in the 1987 RIA [Ex. 206, p. IV-42], OSHA estimates that capital costs would be \$52,000 per plant, or \$11,128,000 for all furniture plants. The annual operating costs would be \$13,000 per plant, or \$2,782,000 for all "integrated" plants, or a total for the industry of \$3,353,536. Annualizing the capital cost at 10% over a 10-year expected equipment lifetime results in an annualized cost of \$1,811,031; total annual costs, therefore, are projected to be \$5,164,567.

Laboratories

In the 1987 RIA analysis of formaldehyde exposures in laboratories [Ex. 206, p. IV-58-59, 61], a clear dichotomy was found between laboratories with functioning fume hoods and good work practices and those without them. High exposure levels were believed to exist in "problem" histology and pathology labs as a result of malfunctioning or misused fume hoods or poor work practices. Engineering controls and good work practices implemented in response to the existing standard, should have largely eliminated exposures above 0.5 ppm [Ex. 128, p. 4, 6, 9]. Exposures in some laboratories also show significant peak periods or episodes [Ex. 128, p. 5]. To the extent that laboratories are in compliance with the existing 2.0 ppm STEL, they should also be in compliance with a 0.75 ppm PEL [Ex. 128, p. 9]. Therefore, no engineering controls are thought to be necessary.

Funeral Services

The 1987 RIA indicated, based upon a study of 44 Iowa funeral homes, that TWA exposures were less of a problem than short-term exposures in this industry sector. TWA exposures were estimated to be below 0.5 ppm for all establishments in compliance with the

present standard [Ex. 206, p. IV-66]. Annual training for employees exposed between 0.1 and 0.5 ppm should improve work practices and help reduce short term exposures. No engineering controls are thought to be necessary for this.

Resins

OSHA's 1987 RIA indicated that 35 of 97 plants had partially open production processes and would need to install engineering controls, lowering exposures to 0.75 ppm. The other 62 plants had a closed production process and were not believed to have exposures above 0.5 ppm [Ex. 206, p. IV-70]. No additional engineering control costs are estimated for this industry.

Textile Finishing

At the time of the 1987 rulemaking, OSHA estimated that there were 685 textile finishing plants with formaldehyde exposures between 0.5 and 1.0 ppm [Ex. 206, p. 78, 80]. Approximately half, or 343, were estimated to have exposures between 0.75 and 1.0 ppm.

The Ashford report examined methods [Ex. 70-1] which would be expected to lower exposures in many areas of textile plants. However, the textile industry indicated that as of 1986, they were using the most chemically advanced resins available, and a further reduction of formaldehyde content in cloth would come only at the expense of a significant decrease in fabric quality [Ex. 159].

However, in 1989 OSHA lowered permissible exposure limits (PELs) on about 200 chemicals and instituted first time PELs for about 160 others. Since the textile finishing industry uses a large number of regulated chemicals, OSHA believes that improved ventilation is being introduced in order to limit chemical exposure generally [54 FR 2816, 1/19/89]. Recent OSHA inspection data have indicated no personal exposures to formaldehyde above 0.5 ppm in this industry [Ex. 301-1]. OSHA therefore believes that all textile

finishing plants are currently in compliance with a 0.75 ppm PEL.

Apparel

In the 1987 RIA, OSHA estimated that 5,737 establishments had exposures between 0.5 and 1.0 ppm. OSHA estimates that approximately half of these, or 2,869 establishments, may have exposures between 0.75 and 1.0 ppm.

The record indicates that exposure problems in the apparel industry are due to the lack of appropriate exhaust ventilation. That is, the workplace is treated like an office or store and air is recirculated rather than exhausted and replaced, allowing formaldehyde concentrations to build [Ex. 78-24, 78-48]. A relatively simple solution to this problem of air stagnation is to install roof exhaust fans. These fans will also provide the additional benefit of exhausting the excess heat and formaldehyde present within the air. Ashford cited the cost of installing a 2,000 cubic feet per minute (cfm) roof exhaust fan at \$1,000, with an annual operating cost of \$720 [Ex. 70-1, p. 4-19]. Factoring in inflation, the capital cost is now estimated to be approximately \$1,200, and the incremental annual operating cost \$864. OSHA, therefore, estimates the cost of compliance with the lower PEL in the apparel industry to be \$3,442,800 for capital and \$2,478,816 for annual operating costs. Annualizing the capital cost at 10% over a 10 year expected equipment lifetime results in an annualized cost of \$560,300; total annual costs, therefore, are projected to be \$3,039,116.

Formaldehyde Production

The 1987 RIA estimated that approximately 16 out of 49 establishments would have exposures above 0.5 ppm after promulgation of the standard; the 1987 RIA indicated no exposures above 0.7 ppm [Ex. 206, p. IV-78].

Ashford [Ex. 70-1] developed formaldehyde production engineering control cost estimates in 1981 and

indicated costs of compliance to meet all potential exposure limits. (However, Ashford actually had very little information on formaldehyde production operations and based his cost estimates on vinyl chloride monomer production operations.) In 1985 Heiden indicated that such plants were already in compliance with a 1.0 ppm PEL [Ex. 77-19]. Consistent with the above analysis and data, OSHA believes no additional controls would be necessary to achieve compliance with a 0.75 ppm PEL.

Plastic Molding Laminates

In its 1987 RIA, OSHA estimated that approximately 1,000 plants have exposures between 0.5 and 1.0 ppm [Ex. 206, p. IV-75, 76]. OSHA estimates that approximately half, or 500 plants, have exposures between 0.75 and 1.0 ppm. Ashford [Ex. 70-1] estimated that there was one molding machine for every four workers, the capital cost for local ventilation was \$425 per machine and the annual operating cost was approximately \$133 per machine. Given the estimated 5,000 workers exposed between 0.75 and 1.0 ppm, ventilation would be required for 1,250 machines. OSHA estimates the capital cost would be \$510 per machine and the annual operating cost \$160. Based upon these unit costs, OSHA estimates \$637,500 in capital costs and \$200,000 in annual operating costs. The annualized capital cost amounts to \$103,750. Therefore, total annual cost of compliance for this industry is expected to be \$303,750.

Summary of Engineering Control Costs

OSHA estimates the total capital costs of instituting engineering controls which would be sufficient to comply with a 0.75 ppm PEL to be \$38.9 million, with annual operating costs of \$9.2 million. The annualized cost of the engineering control capital costs is estimated to be \$6.4 million, for a total annual cost of \$15.6 million. An annual cost summary for each industry is provided in Table II.

TABLE II.—ANNUAL COSTS OF ENGINEERING CONTROLS IN COMPLIANCE WITH THE REVISED FORMALDEHYDE STANDARD

(1987 dollars)

SIC	Industry	Capital cost	Annualized capital cost	Annual operating cost	Total annual cost
332,336	Foundries	\$21,540,000	\$3,505,536	\$1,938,600	\$5,444,136
2435	Hardwood Plywood	66,000	10,741	649,550	660,291
2492	Particleboard	1,722,560	280,339	430,640	710,979
2499	Fiberboard	316,602	51,528	190,458	241,984
25	Furniture	11,128,000	1,811,031	3,353,536	5,164,567
23	Apparel	3,442,800	560,300	2,478,816	3,039,116
3079	Plastic Molding	637,500	103,750	200,000	303,750
Total		38,853,462	6,323,222	9,241,600	15,564,822

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis.

Medical Removal Protection

The medical removal process begins when an employee reports signs and symptoms of possible overexposure to formaldehyde. OSHA previously estimated that 10 percent of workers exposed between 0.1 and 0.5 ppm would report signs and symptoms [Ex. 206, p. IV-11]. These workers would fill out a medical questionnaire, after which a two week evaluation and remediation period would begin. If the symptoms have not subsided after two weeks, the employee would be immediately referred to a physician. The physician might, in turn recommend transferring the employee to a job with significantly less formaldehyde exposure.

OSHA's medical removal provision is a codified version of plans that already exist in a number of companies [Ex. 159]. Companies with current removal programs have noted that placement in another job because of formaldehyde exposure, is rare. The former medical director of Burlington Industries reported that "clearly less than ten percent" of employees completing medical questionnaires required further medical evaluation. He added that among all exposed employees, only about one percent had symptoms that were clearly "chemically related" [Tr. 160, May 12, 1986]. The American Textile Manufacturers Institute stated that " * * * most companies have a complaint mechanism in place to discover individuals with problems * * *. Corporate medical surveillance programs show absolutely no evidence that contact dermatitis or allergic reaction from formaldehyde is a frequent problem [Ex. 159]." The medical director for the Dan River Clinic, indicated that over a 10 year period he received "no complaints about formaldehyde irritation or formaldehyde induced dermatological problems" [Ex. 159]. This clinic provides medical examinations for 6,000-12,000 company employees, 25 percent of whom are exposed to formaldehyde at levels between 0.15 and 1.0 ppm in textile operations.

There are, however, additional safeguards in the final provision that may increase the frequency of medical removal. The amended standard provides for additional training, which

should increase employee awareness of the signs and symptoms of formaldehyde exposure, as well as an understanding of their rights under medical removal protection (MRP) and the proper channels to follow in using it. Additionally, under the final rule, an employee is allowed to appeal the company doctor's decision. Therefore, it is reasonable to expect some increase in the amount of transfer and removal over what is currently reported.

Based upon the discussion above, OSHA estimates that one percent, or 22,000 of all employees exposed to formaldehyde may require medical removal protection as provided for in the final rule. These employees are already provided medical surveillance under the present standard and a large number of employers presently provide for medical removal in one form or another. Thus, the additional burden imposed by this amendment is expected to be small. It is estimated that most sensitized employees will be transferred out of higher exposure areas into other jobs.

However, a potentially significant cost of this provision would be the requirement to provide 6 months compensation to employees for whom alternate jobs would not be available. Although the record on medical removal programs in larger companies suggests that alternate jobs are usually available [Ex. 159], the effect of universal medical removal protection on small firms is uncertain. For the purposes of estimating the impact of this provision, OSHA assumes that 30 percent of 2,200 sensitized employees in smaller establishments, or 660 employees will not be provided alternate positions by their employer and therefore must be provided six months compensation. By this assumption, the cost would be \$6.0 million annually.

The existence of current medical removal plans in industry points to the fact that it makes economic sense to have a medical removal program. Workers who suffer adverse health effects from formaldehyde exposure can be moved to positions where they can contribute productively to a firm's operation. OSHA anticipates offsetting cost savings from this provision in the

form of reduced absenteeism and reduced medical care costs.

Hazard Communication

In an expansion of the existing standard, workers exposed between 0.1 and 0.5 ppm are now required to receive annual training on the hazards of formaldehyde and ways to avoid them. OSHA estimates the cost of this to be \$13.5 million per year.

Based upon the 1987 RIA [Ex. 206, p. I-3], OSHA estimates that there are currently approximately 2 million employees exposed to formaldehyde between 0.1 and 0.5 ppm. OSHA estimates that when current compliance is accounted for, it would take an additional half an hour annually, on average, to provide training specific to formaldehyde for these employees⁴. Employing the data and methodology used in the RIA [Ex. 206, p. 15], OSHA estimates the cost of training as follows:

Employee Training Cost: # of employees between 0.1 and 0.5 ppm \times (1 + $\frac{1}{2}$ turnover rate⁵) \times (wage \times 1.3 fringe rate) \times $\frac{1}{2}$ hour

Trainer cost in establishments with 20 employees or more: # of employees exposed between 0.1 and 0.5 ppm \times (1 + $\frac{1}{2}$ turnover rate) / 20 \times \$26⁶ \times $\frac{1}{2}$ hour

Trainer cost in establishments with 20 or fewer employees: # of affected establishments \times \$26 \times $\frac{1}{2}$ hour

A summary of the compliance costs of these revisions to the standard for each industry are provided in Table III.

⁴ In the 1987 RIA, OSHA estimated that one hour training would be a reasonable estimate of the amount of time required for the annual training in the average establishment [Ex. 206, p. IV-15]. However, the original RIA training costs did not factor in current compliance. In the apparel industry, with almost half of the affected employees, little time would be needed to train employees on these provisions. Moreover, in addition to whatever baseline existed before, the current standard has likely spurred additional training for employees with exposure below 0.5 ppm, in part because some establishments may have chosen to establish training programs for all employees, not just new employees or those exposed above 0.5 ppm.

⁵ While the exact turnover rate varies by industry, OSHA has assumed that $\frac{1}{2}$ each industry's turnover rate reflects the percent of employees leaving a job who were already trained in that year. [Ex. 206, p. IV-4]

⁶ Trainer hourly compensation [Ex. 206, p. IV-15].

TABLE III.—ANNUAL COSTS OF COMPLYING WITH THE REVISED FORMALDEHYDE STANDARD

[1987 Dollars]

SIC	Industry	Engineering controls	Medical removal protection	Training	Total
2435	Hardwood Plywood	\$660,291	\$28,451	\$50,720	\$739,461
2492	Particleboard	710,979	12,834	17,634	741,447
2499	Fiberboard	241,984	3,233	2,011	247,227
25	Furniture	5,164,567	752,527	1,498,668	7,415,761
2821	Resins	0	49,860	81,433	131,293
332,336	Foundries	5,444,136	279,162	397,961	6,121,259
806,807	Laboratories	0	133,827	321,714	455,541
7261	Funeral Services	0	91,962	363,597	455,559
226	Textile Finishing	0	83,423	62,996	146,419
23	Apparel	3,039,116	2,132,891	4,367,703	9,539,710
2869	Formaldehyde Production	0	11,594	25,461	37,055
3079	Plastic Molding	303,750	317,460	630,934	1,252,144
2436	Softwood Plywood	0	100,903	193,398	294,301
2611	Pulp Mills	0	41,529	90,578	132,107
2621	Paper Mills	0	324,772	708,344	1,033,116
2631	Paperboard Mills	0	139,512	304,284	443,796
2642	Envelopes	0	61,645	142,735	204,380
2653	Corrugated & Solid Fiber Boxes	0	218,678	492,770	711,448
2865	Cyclic Crudes, Cyclic Intermediates, Dyes & Organic Pigment	0	51,912	112,685	164,597
2851	Paints, Pigments	0	89,548	203,638	293,186
2879	Agricultural Chemicals, NEC	0	31,471	70,593	102,064
2891	Adhesives & Sealants	0	35,365	79,691	115,056
2899	Chemicals & Chemical Preparations, NEC	0	74,947	168,887	243,834
3291	Abrasive Products	0	55,156	123,149	178,305
3293	Gaskets, Packaging & Sealing Devices	0	70,730	157,920	228,650
3296	Mineral Wool Insulation	0	50,289	112,283	162,572
3634	Electric Housewares & Fans	0	95,063	218,147	313,210
3643	Current-carrying Wiring Devices	0	103,499	235,365	338,863
3644	Noncurrent-carrying Wiring Devices	0	58,725	133,545	192,270
3694	Electrical Equip. For I.C. Engines	0	104,797	231,816	336,613
3792	Mobile Homes Manufacturing	0	36,338	91,275	127,613
7395	Photofinishing Labs	0	232,765	520,050	752,815
806	Hemodialysis	0	102,201	460,368	562,569
822	Biology Instructors	0	93,928	759,151	853,078
822	Veterinary Anatomy	0	123	494	617
Total:		15,564,822	6,071,119	13,431,998	35,067,940

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis

Benefits

OSHA expects these final revisions to the standard to produce quantifiable benefits in the form of reduced cancer incidence due to the lowered PEL and increased training, and reduced acute respiratory irritation due to the institution of medical removal protection. In addition, OSHA expects that the lower PEL and increased training would improve worker productivity through a lessening of irritation and an improved understanding of workplace processes.

Cancers Avoided

An estimated 83,818 workers are currently exposed above 0.75 ppm, at an average formaldehyde concentration of 0.875 ppm. This exposure is expected to be reduced to an average of 0.5625 ppm after implementation of the 0.75 ppm PEL. The 1987 RIA employed a cancer risk model developed by the Consumer Product Safety Commission based upon rat studies [Ex. 206, p. V-1-5]. Based upon this model, OSHA estimates that from 0.2 to 72 cancers would be avoided

over the next 45 years by lowering the PEL from 1 to 0.75 ppm, depending on whether the Maximum Likelihood Estimate (MLE) or the Upper Confidence Limit (UCL) is used in the risk assessment⁷. Lowering exposure levels should also bring some decrease in respiratory distress and may result in greater worker productivity, as described further below.

OSHA believes that the additional training would also provide health benefits. Annual training ensures that the knowledge and appreciation of the hazard and ways to limit exposure through good work practices are reinforced continually.

⁷ Based upon the CPSC five-stage model, the Maximum Likelihood Estimate of Risk (MLE) is expressed as:

$$EP(d) = 0.3954783163 \times 10^{-5} \times (\text{dose in ppm})^4 + 0.1597258396 \times 10^{-5} \times (\text{dose in ppm})^5$$

where
EP(d) = the excess probability of cancer attributable to formaldehyde

The Upper Confidence Limit (UCL) is approximately linear at low doses and, for the purposes of this analysis, could be expressed as:
 $EP(d) = 264 \times 10^{-5} \times (\text{dose in ppm})$

The projected benefits of the hazard communication rule were a 20% reduction in all chemically related worker illnesses as the result of labeling, MSDSs and initial training. With the specific exposure reductions noted in the industry discussion, OSHA expects an additional 5% reduction in formaldehyde-related illnesses among the workers exposed between 0.1 and 0.5 ppm. Using the same risk model used to project benefits from lowering the PEL, OSHA estimates that, given a 5% risk reduction from annual training, an additional .004 to 79 cancers would be avoided over the next 45 years as a result of annual training⁸.

In sum, OSHA estimates that lowering the PEL and providing additional training could prevent as many as 151 cancers over the next 45 years based upon the upper confidence limit risk assessment model. However, the

⁸ This was estimated by using the MLE and the UCL applied to all employees exposed to formaldehyde between 0.5 and 0.1 ppm, assuming an average exposure of 0.3 ppm, and a 5% reduction in risk.

maximum likelihood estimate of risk, produces only negligible benefits related to the final revisions.

Non-Carcinogenic Benefits

In the 1987 RIA, OSHA estimated that 5,911 cases of respiratory distress would be eased by lowering the PEL to 1.0 ppm [Ex. 206, p. V-9-11]. These same symptoms persist at very low exposure levels for a small percentage of the population. These employees would be directly aided by medical removal protection.

There are approximately 2,156,801 employees exposed to formaldehyde at 0.1 ppm or greater. As discussed in the 1987 RIA, employee exposure to formaldehyde can cause eye, nose, and throat irritation, coughing, headaches, chest discomfort, changes in lung function, impaired physical performance and exacerbation of asthma. OSHA estimates that as many as 1%, or 21,568 workers may be removed annually for respiratory distress. This represents a potential cost savings to society since the protected worker will be more

productive when not experiencing health problems.

Economic Impact and Regulatory Flexibility

An analysis of revenue and profit data provided in the 1987 RIA indicates that the costs to comply (without consideration of cost savings) with these amendments would not have a significant adverse impact on a substantial number of small entities nor on the economy as a whole. In only the fiberboard industry are costs expected to be as much as 0.1% of revenue, and costs are expected to be less than 1% of profits in all but a few industries. The greatest potential impact on profits would be in the hardwood plywood industry, where compliance costs are estimated to be 5.4% of profits.

Smaller establishments should not be disproportionately impacted. Although it is possible that a small number of marginal firms may have to cease operations, OSHA estimates that most of these firms should be able to absorb the costs of this standard. Most of the costs in the hardwood plywood industry

are attributed to the capital and operating costs associated with the introduction of LEUF resins, and these costs are directly proportional to sales. In the furniture industry, most of the engineering control costs would be absorbed by a minority of larger plants. Human resource costs, such as removal protection and training are generally proportional to the number of employees, and therefore would not have a disproportionate impact on small businesses. The requirement to give employees six month removal compensation might be more burdensome to small businesses due to limited availability of alternate jobs, but this should be a particularly rare event. Since the likelihood of encountering such formaldehyde-sensitive employees is directly related to the number of employees in a business, this provision is not expected to impact a substantial number of small entities. Estimates of average compliance costs per establishment, as a percentage of revenues and profits are provided for all affected industries in Table IV.

TABLE IV.—COST OF PROPOSED AMENDMENTS TO FORMALDEHYDE STANDARD AS A PERCENTAGE OF REVENUES AND PROFIT

SIC	Industry	Annual costs (\$)	Cost per establishment	Costs as % of revenue	Cost as % of profits
2435	Hardwood Plywood	739,461	3,697	0.075	5.35
2492	Particleboard	741,447	16,118	0.089	1.78
2499	Fiberboard	247,227	17,659	0.102	2.04
25	Furniture	7,415,761	1,355	0.080	3.09
2821	Resins	131,293	1,354	0.003	0.08
332, 336	Foundries	6,121,259	2,039	0.049	1.63
806, 807	Laboratories	455,541	37	0.000	NA
7261	Funeral Services	455,559	30	0.009	0.10
226	Textile Finishing	146,419	214	0.003	0.16
23	Apparel	9,539,710	416	0.018	0.57
2869	Formaldehyde Production	37,055	756	0.002	0.03
3079	Plastic Molding	1,252,144	250	0.006	NA
2436	Softwood Plywood	294,301	1,177	0.004	0.09
2611	Pulp Mills	132,107	3,072	0.004	0.09
2621	Paper Mills	1,033,116	3,455	0.004	0.09
2631	Paperboard Mills	443,796	1,999	0.004	0.09
2642	Envelopes	204,380	690	0.010	0.26
2653	Corrugated & Solid Fiber Boxes	711,448	477	0.005	0.14
2865	Cyclic Crudes, Cyclic Intermediates, Dyes	164,597	871	0.002	0.04
2851	Paints, Pigments	293,186	203	0.003	0.07
2879	Agricultural Chemicals, NEC	102,064	309	0.002	0.05
2891	Adhesives & Sealants	115,056	168	0.003	0.07
2899	Chemicals & Chemical Preparations, NEC	243,834	169	0.003	0.08
3291	Abrasive Products	178,305	477	0.005	0.27
3293	Gaskets, Packaging & Sealing Devices	228,650	482	0.010	NA
3296	Mineral Wool Insulation	162,572	908	0.005	NA
3634	Electric Houseware & Fans	313,210	1,191	0.010	0.19
3643	Current-carrying Wiring Devices	338,863	817	0.010	0.20
3644	Noncurrent-carrying Wiring Devices	192,270	851	0.008	0.18
3694	Electrical Equip. For I.C. Engines	336,613	777	0.006	0.12
3792	Mobile Homes Manufacturing	127,613	77	0.009	0.32
7395	Photofinishing Labs	752,815	210	0.026	0.60
806	Hemodialysis	562,569	54	0.000	NA
822	Biology Instructors	853,078	38	0.001	NA
822	Veterinary Anatomy	617	32	0.000	NA

Source: U.S. Department of Labor, OSHA, Office of Regulatory Analysis

Environmental Impact Analysis

The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et. seq.*, requires OSHA to determine whether this regulatory action would have a significant impact on the environment. These amendments would not increase the amount of formaldehyde found in the general environment and may decrease it as some establishments switch to low-emitting resins. Therefore, the Agency believes that these provisions would not have a significant impact on the environment. No comments made at the public hearing or submitted to the record contradict this conclusion.

Paperwork Reduction

The amended paragraphs of the formaldehyde standard do not have information collection requirements subject to OMB review under the Paperwork Reduction Act. The existing paperwork requirements were approved by OMB under control number 1218-0145.

Federalism and State Plan Applicability

This final standard has been reviewed in accordance with Executive Order 12612, 52 FR 41685 (October 30, 1987), regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of State law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act), expresses Congress' clear intent to preempt State laws with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act, a State can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such Plan-States must, among other things, be at least as effective as the Federal standards in providing safe and healthful employment and places of employment.

Those States which have elected to participate under Section 18 of the OSH Act would not be preempted by this regulation and would be able to deal with special, local conditions within the framework provided by this performance-oriented standard while ensuring that their standards are at least as effective as the Federal standard.

The 25 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of publication of a final rule. The States are: Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming. For New York and Connecticut, plans cover only State and local government employees. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

Authority and Signature

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington DC 20210. Pursuant to the authority of section 4(b)(2), 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 653, 655, 657), the Construction Safety Act (40 U.S.C. 333), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), the Secretary of Labor's Order 1-90 (55 FR 9033), 29 CFR part 1911, 29 CFR part 1910 is amended as set forth below. As with the original standard covering occupational exposure to formaldehyde, this final amendment of that standard would also apply to the maritime and construction industries.

List of Subjects in 29 CFR Part 1910

Formaldehyde, Occupational Safety and Health, Chemicals, Cancer.

Signed at Washington, DC this 15th day of May, 1992.

Dorothy L. Strunk,
Acting Assistant Secretary of Labor.

PART 1910—[AMENDED]

Part 1910 of title 29 of the Code of Federal Regulations is therefore amended as follows:

1. The authority citation for subpart Z of part 1910 continues to read in part as follows:

Authority: Secs. 6, 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033) as applicable; and 29 CFR part 1911.

Section 1910.1048 also issued under 29 U.S.C. 653.

2. In § 1910.1048, Table 1 is removed from paragraph (g)(3)(ii), and paragraphs (c)(1), (d)(1)(ii), (g)(2)(i) (including Table 1), (g)(3)(iv), (m)(1) introductory text, (m)(1)(i), (m)(3), (m)(4), (n)(1) and (n)(2) are revised; and paragraphs (d)(2)(iii), (1)(8), (1)(9), (m)(5) and (p)(3) are added to read as follows:

§ 1910.1048 Formaldehyde.

(c) *Permissible Exposure Limit (PEL)*—(1) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds 0.75 parts formaldehyde per million parts of air (0.75 ppm) as an 8-hour TWA.

(d) *Exposure monitoring*—(1) *General*.

(ii) *Exception*. Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde.

(2) *Initial monitoring*.

(iii) If the employer receives reports of signs or symptoms of respiratory or dermal conditions associated with formaldehyde exposure, the employer shall promptly monitor the affected employee's exposure.

(g) *Respiratory protection*.

(2) *Respiratory selection*. (i) The appropriate respirators as specified in Table 1 shall be selected from those approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR part 11.

TABLE 1.—MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 7.5 ppm. (10 × PEL).	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde. ²
Up to 75 ppm. (100 × PEL).	Full-face mask with chin style or chest or back mounted type with industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator, pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 75 ppm. or unknown (emergencies). (100 × PEL).	Self-contained breathing apparatus (SCBA) with positive pressure full facepiece.
22	Combination supplied-air, full facepiece positive pressure respirator with auxiliary self-contained air supply.
Firefighting	SCBA with positive pressure in full facepiece.
Escape	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(3) Respirator usage. ***

(iv) Unless the canister contains a NIOSH-approved end-of-service-life indicator to show when breakthrough occurs, canisters used in atmospheres up to 7.5 ppm (10 × PEL) shall be replaced every 4 hours and industrial sized canisters used in atmospheres up to 75 ppm (100 × PEL) shall be replaced every two hours or at the end of the workshift, whichever is sooner.

(1) Medical surveillance. ***

(8) Medical removal. (i) The provisions of paragraph (1)(8) apply when an employee reports significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure. Medical removal provisions do not apply in the case of dermal irritation or dermal sensitization when the product suspected of causing the dermal condition contains less than 0.05% formaldehyde.

(ii) An employee's report of signs or symptoms of possible overexposure to formaldehyde shall be evaluated by a physician selected by the employer pursuant to paragraph (1)(3). If the physician determines that a medical examination is not necessary under paragraph (1)(3)(ii), there shall be a two-week evaluation and remediation period to permit the employer to ascertain whether the signs or symptoms subside untreated or with the use of creams, gloves, first aid treatment or personal protective equipment. Industrial hygiene measures that limit the employee's exposure to formaldehyde may also be implemented during this period. The employee shall be referred immediately to a physician prior to expiration of the two-week period if the signs or

symptoms worsen. Earnings, seniority and benefits may not be altered during the two-week period by virtue of the report.

(iii) If the signs or symptoms have not subsided or been remedied by the end of the two-week period, or earlier if signs or symptoms warrant, the employee shall be examined by a physician selected by the employer. The physician shall presume, absent contrary evidence, that observed dermal irritation or dermal sensitization are not attributable to formaldehyde when products to which the affected employee is exposed contain less than 0.1% formaldehyde.

(iv) Medical examinations shall be conducted in compliance with the requirements of paragraph (1)(5)(i) and (ii). Additional guidelines for conducting medical exams are contained in appendix C.

(v) If the physician finds that significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization result from workplace formaldehyde exposure and recommends restrictions or removal, the employer shall promptly comply with the restrictions or recommendation of removal. In the event of a recommendation of removal, the employer shall remove the affected employee from the current formaldehyde exposure and if possible, transfer the employee to work having no or significantly less exposure to formaldehyde.

(vi) When an employee is removed pursuant to paragraph (1)(8)(v), the employer shall transfer the employee to comparable work for which the employee is qualified or can be trained in a short period (up to 6 months), where the formaldehyde exposures are as low as possible, but not higher than the action level. The employer shall

maintain the employee's current earnings, seniority, and other benefits. If there is no such work available, the employer shall maintain the employee's current earnings, seniority and other benefits until such work becomes available, until the employee is determined to be unable to return to workplace formaldehyde exposure, until the employee is determined to be able to return to the original job status, or for six months, whichever comes first.

(vii) The employer shall arrange for a follow-up medical examination to take place within six months after the employee is removed pursuant to this paragraph. This examination shall determine if the employee can return to the original job status, or if the removal is to be permanent. The physician shall make a decision within six months of the date the employee was removed as to whether the employee can be returned to the original job status, or if the removal is to be permanent.

(viii) An employer's obligation to provide earnings, seniority and other benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program or from employment with another employer made possible by virtue of the employee's removal.

(ix) In making determinations of the formaldehyde content of materials under this paragraph the employer may rely on objective data.

(9) Multiple physician review. (i) After the employer selects the initial physician who conducts any medical examination or consultation to determine whether medical removal or restriction is appropriate, the employee may designate a second physician to review any findings, determinations or

recommendations of the initial physician and to conduct such examinations, consultations, and laboratory tests as the second physician deems necessary and appropriate to evaluate the effects of formaldehyde exposure and to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical or consultation for the purpose of medical removal or restriction.

(iii) The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen (15) days after receipt of the notification of the right to seek a medical opinion, or receipt of the initial physician's written opinion, whichever is later:

(A) The employee informs the employer of the intention to seek a second medical opinion, and

(B) The employee initiates steps to make an appointment with a second physician.

(iv) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve the disagreement. If the two physicians are unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician who shall be a specialist in the field at issue:

(A) To review the findings, determinations or recommendations of the prior physicians; and

(B) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(v) In the alternative, the employer and the employee or authorized employee representative may jointly designate such third physician.

(vi) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(m) *Hazard communication*—(1) *General*. Communication of the hazards associated with formaldehyde in the workplace shall be governed by the requirements of paragraph (m). The definitions of 29 CFR 1910.1200(c) shall apply under this paragraph.

(i) The following shall be subject to the hazard communication requirements of this paragraph: formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air, under reasonably foreseeable conditions of use, at concentrations reaching or exceeding 0.1 ppm.

(3) *Labels*. (i) The employer shall assure that hazard warning labels complying with the requirements of 29 CFR 1910.1200(f) are affixed to all containers of materials listed in paragraph (m)(1)(i), except to the extent that 29 CFR 1910.1200(f) is inconsistent with this paragraph.

(ii) *Information on labels*. As a minimum, for all materials listed in paragraph (m)(1)(i) capable of releasing formaldehyde at levels of 0.1 ppm to 0.5 ppm, labels shall identify that the product contains formaldehyde; list the name and address of the responsible party; and state that physical and health hazard information is readily available from the employer and from material safety data sheets.

(iii) For materials listed in paragraph (m)(1)(i) capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all hazards as defined in 29 CFR 1910.1200(d) and 29 CFR 1910.1200 appendices A and B, including respiratory sensitization, and shall contain the words "Potential Cancer Hazard."

(iv) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

(v) *Substitute warning labels*. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this paragraph.

(4) *Material safety data sheets*. (i) Any employer who uses formaldehyde-containing materials listed in paragraph (m)(1)(i) shall comply with the requirements of 29 CFR 1910.1200(g) with regard to the development and updating of material safety data sheets.

(ii) *Manufacturers, importers, and distributors* of formaldehyde-containing materials listed in paragraph (m)(1)(i) shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first

shipment after a material safety data sheet is updated.

(5) *Written hazard communication program*. The employer shall develop, implement, and maintain at the workplace, a written hazard communication program for formaldehyde exposures in the workplace, which at a minimum describes how the requirements specified in this paragraph for labels and other forms of warning and material safety data sheets, and paragraph (n) for employee information and training, will be met. Employers in multi-employer workplaces shall comply with the requirements of 29 CFR 1910.1200(e)(2).

(n) *Employee information and training*—(1) *Participation*. The employer shall assure that all employees who are assigned to workplaces where there is exposure to formaldehyde participate in a training program, except that where the employer can show, using objective data, that employees are not exposed to formaldehyde at or above 0.1 ppm, the employer is not required to provide training.

(2) *Frequency*. Employers shall provide such information and training to employees at the time of initial assignment, and whenever a new exposure to formaldehyde is introduced into the work area. The training shall be repeated at least annually.

(p) *Dates*. * * *

(3) *Start-up dates of amended paragraphs*—(i) *Respiratory protection*. Respiratory protection required to meet the amended PEL of 0.75 ppm TWA shall be provided as soon as possible but no later than September 24, 1992.

(ii) *Engineering and work practice controls*. Engineering and work practice controls required to meet the amended PEL of 0.75 ppm TWA shall be implemented as soon as possible, but no later than June 26, 1993.

(iii) *Medical removal protection*. The medical removal protection provisions including the multiple physician review mechanism shall be implemented no later than December 28, 1992.

(iv) *Hazard communication*. The labeling provisions contained in amended paragraph (m) of this standard shall be implemented no later than December 28, 1992. Labeling of containers of formaldehyde products shall continue to comply with the provisions of 29 CFR 1910.1200 (e)-(j) until that time.

(v) *Training*. The periodic training mandated for all employees exposed to formaldehyde between 0.1 ppm and 0.5 ppm shall begin no later than August 25, 1992.

For the convenience of the public, the Formaldehyde Standard, 29 CFR 1910.1048 as revised is set forth below.

§ 1910.1048 Formaldehyde.

(a) *Scope and application.* This standard applies to all occupational exposures to formaldehyde, i.e. from formaldehyde gas, its solutions, and materials that release formaldehyde.

(b) *Definitions.* For purposes of this standard, the following definitions shall apply:

Action level means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an eight (8)-hour time-weighted average (TWA) concentration.

Assistant Secretary means the Assistant Secretary of Labor for the Occupational Safety and Health Administration, U.S. Department of Labor, or designee.

Authorized person means any person required by work duties to be present in regulated areas, or authorized to do so by the employer, by this section, or by the OSH Act of 1970.

Director means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

Emergency is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

Employee exposure means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

Formaldehyde means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(c) *Permissible Exposure Limit (PEL)*—(1) *TWA*: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds 0.75 parts formaldehyde per million parts of air (0.75 ppm) as an 8-hour TWA.

(2) *Short Term Exposure Limit (STEL)*: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a 15-minute STEL.

(d) *Exposure monitoring*—(1) *General*. (i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) *Exception.* Where the employer

documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different work shifts.

(2) *Initial monitoring.* The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(iii) If the employer receives reports of signs or symptoms of respiratory or dermal conditions associated with formaldehyde exposure, the employer shall promptly monitor the affected employee's exposure.

(3) *Periodic monitoring.* (i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every 6 months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least

once a year under worst conditions.

(4) *Termination of monitoring.* The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least 7 days apart show that employee exposure is below the action level and the STEL. The results must be statistically representative and consistent with the employer's knowledge of the job and work operation.

(5) *Accuracy of monitoring.* Monitoring shall be accurate, at the 95 percent confidence level, to within plus or minus 25 percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus 35 percent for airborne concentrations of formaldehyde at the action level.

(6) *Employee notification of monitoring results.* Within 15 days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(7) *Observation of monitoring.* (i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(e) *Regulated areas.* (1) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER

FORMALDEHYDE

IRRITANT AND POTENTIAL CANCER
HAZARD

AUTHORIZED PERSONNEL ONLY

(2) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(3) An employer at a multiemployer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(f) *Methods of compliance*—(1) *Engineering controls and work practices.* The employer shall institute engineering and work practice controls to reduce and maintain employee

exposures to formaldehyde at or below the TWA and the STEL.

(2) *Exception.* Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(g) *Respiratory protection*—(1) *General.* Where respiratory protection is required, the employer shall provide the respirators at no cost to the employee and shall assure that they are properly used. The respirators shall comply with the requirements of this standard and shall reduce the concentration of formaldehyde inhaled by the employee to at or below both the TWA and the STEL. Respirators shall be used in the following circumstances:

(i) During the interval necessary to install or implement feasible engineering and work practice controls;

(ii) In work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the PELs; and

(iv) In emergencies.

(2) *Respirator selection.* (i) The appropriate respirators as specified in Table 1 shall be selected from those approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR part 11.

TABLE 1.—MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 7.5 ppm (10 x PEL).	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde. ²
Up to 75 ppm (100 x PEL).	Full-face mask with chin style or chest or back mounted type with industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator, pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 75 ppm or unknown (emergencies). (100 x PEL).	Self-contained breathing apparatus (SCBA) with positive pressure full facepiece. Combination supplied-air, full facepiece positive pressure respirator with auxiliary self-contained air supply.
Firefighting.....	SCBA with positive pressure in full facepiece.
Escape.....	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(ii) The employer shall make available a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who experiences difficulty wearing a negative pressure respirator to reduce exposure to formaldehyde.

(3) *Respirator usage.* (i) whenever respirator use is required by this standard, the employer shall institute a respiratory protection program in accordance with 20 CFR 1910.134(b), (d), (e), and (f).

(ii) The employer shall perform either quantitative or qualitative face fit tests in accordance with the procedures outlined in Appendix E at the time of initial fitting and at least annually thereafter for all employees required by this standard to wear negative pressure respirators.

(A) Respirators selected shall be from those exhibiting the best facepiece fit.

(B) No respirator shall be chosen that would potentially permit the employee

to inhale formaldehyde at concentrations in excess of either the TWA or the STEL.

(iii) Where air purifying chemical cartridge respirators are used, the cartridges shall be replaced after three hours of use or at the end of the workshift, whichever is sooner unless the cartridge contains a NIOSH-approved end-of-service indicator to show when breakthrough occurs.

(iv) Unless the canister contains a NIOSH-approved end-of-service-life indicator to show when breakthrough occurs, canisters used in atmospheres up to 7.5 ppm (10xPEL) shall be replaced every 4 hours and industrial sized canisters used in atmospheres up to 75 ppm (100xPEL) shall be replaced every two hours or at the end of the workshift, whichever is sooner.

(v) Employers shall permit employees to leave the work area to wash their faces and respirator facepieces as

needed to prevent skin irritation from respirator use.

(h) *Protective equipment and clothing.* Employers shall comply with the provisions of 29 CFR 1910.132 and 29 CFR 1910.133. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(1) *Selection.* The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

(i) All contact of the eyes and skin with liquids containing 1 percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(2) *Maintenance of protective equipment and clothing.* (i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER

FORMALDEHYDE-CONTAMINATED
[CLOTHING] EQUIPMENT

AVOID INHALATION AND SKIN
CONTACT

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(i) *Hygiene protection.* (1) The employer shall provide change rooms, as described in 29 CFR 1910.141 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(2) If employees' skin may become splashed with solutions containing 1 percent or greater formaldehyde, for example, because of equipment failure or improper work practices, the employer shall provide conveniently

located quick drench showers and assure that affected employees use these facilities immediately.

(3) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eyewash facilities within the immediate work area for emergency use.

(j) *Housekeeping.* For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(1) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(2) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(3) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(4) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(k) *Emergencies.* For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(l) *Medical surveillance—(1) Employees covered.* (i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concentrations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and when formaldehyde is present in material in concentrations less than 0.1 percent.

(2) *Examination by a physician.* All medical procedures, including

administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(3) *Medical disease questionnaire.* The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(4) *Medical examinations.* Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV₁), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the

increased risk of impairment of their health.

(5) *Examinations for employees exposed in an emergency.* The employer shall make medical examinations available as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(6) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and appendix A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(7) *Physician's written opinion.* (i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to

formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within 15 days of its receipt.

(8) *Medical removal.* (i) The provisions of paragraph (1)(8) apply when an employee reports significant irritation of the mucosa of the eyes or the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure. Medical removal provisions do not apply in the case of dermal irritation or dermal sensitization when the product suspected of causing the dermal condition contains less than 0.05% formaldehyde.

(ii) An employee's report of signs or symptoms of possible overexposure to formaldehyde shall be evaluated by a physician selected by the employer pursuant to paragraph (1)(3). If the physician determines that a medical examination is not necessary under paragraph (1)(3)(ii), there shall be a two-week evaluation and remediation period to permit the employer to ascertain whether the signs or symptoms subside untreated or with the use of creams, gloves, first aid treatment or personal protective equipment. Industrial hygiene measures that limit the employee's exposure to formaldehyde may also be implemented during this period. The employee shall be referred immediately to a physician prior to expiration of the two-week period if the signs or symptoms worsen. Earnings, seniority and benefits may not be altered during the two-week period by virtue of the report.

(iii) If the signs or symptoms have not subsided or been remedied by the end of the two-week period, or earlier if signs or symptoms warrant, the employee shall be examined by a physician selected by the employer. The physician shall presume, absent contrary evidence, that observed dermal irritation or dermal sensitization are not attributable to formaldehyde when products to which the affected employee is exposed contain less than 0.1% formaldehyde.

(iv) Medical examinations shall be conducted in compliance with the requirements of paragraph (1)(5) (i) and (ii). Additional guidelines for conducting

medical exams are contained in Appendix C.

(v) If the physician finds that significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization result from workplace formaldehyde exposure and recommends restrictions or removal, the employer shall promptly comply with the restrictions or recommendation of removal. In the event of a recommendation of removal, the employer shall remove the affected employee from the current formaldehyde exposure and if possible, transfer the employee to work having no or significantly less exposure to formaldehyde.

(vi) When an employee is removed pursuant to paragraph (1)(8)(v), the employer shall transfer the employee to comparable work for which the employee is qualified or can be trained in a short period (up to 6 months), where the formaldehyde exposures are as low as possible, but not higher than the action level. The employee shall maintain the employee's current earnings, seniority, and other benefits. If there is no such work available, the employer shall maintain the employee's current earnings, seniority and other benefits until such work becomes available, until the employee is determined to be unable to return to workplace formaldehyde exposure, until the employee is determined to be able to return to the original job status, or for six months, whichever comes first.

(vii) The employer shall arrange for a follow-up medical examination to take place within six months after the employee is removed pursuant to this paragraph. This examination shall determine if the employee can return to the original job status, or if the removal is to be permanent. The physician shall make a decision within six months of the date the employee was removed as to whether the employee can be returned to the original job status, or if the removal is to be permanent.

(viii) An employer's obligation to provide earnings, seniority and other benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program or from employment with another employer made possible by virtue of the employee's removal.

(ix) In making determinations of the formaldehyde content of materials under this paragraph the employer may rely on objective data.

(9) *Multiple physician review.* (i) After the employer selects the initial physician who conducts any medical examination or consultation to determine whether medical removal or restriction is appropriate, the employee may designate a second physician to review any findings, determinations or recommendations of the initial physician and to conduct such examinations, consultations, and laboratory tests as the second physician deems necessary and appropriate to evaluate the effects of formaldehyde exposure and to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation for the purpose of medical removal or restriction.

(iii) The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen (15) days after receipt of the notification of the right to seek a second medical opinion, or receipt of the initial physician's written opinion, whichever is later:

(A) The employee informs the employer of the intention to seek a second medical opinion, and

(B) The employee initiates steps to make an appointment with a second physician.

(iv) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve the disagreement. If the two physicians are unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician who shall be a specialist in the field at issue:

(A) To review the findings, determinations or recommendations of the prior physicians; and

(B) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(v) In the alternative, the employer and the employee or authorized employee representative may jointly designate such third physician.

(vi) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise

consistent with the recommendations of at least one of the three physicians.

(m) *Hazard communication.*—(1) *General.* Communication of the hazards associated with formaldehyde in the workplace shall be governed by the requirements of paragraph (m). The definitions of 29 CFR 1910.1200(c) shall apply under this paragraph.

(i) The following shall be subject to the hazard communication requirements of this paragraph: Formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air, under reasonably foreseeable conditions of use, at concentrations reaching or exceeding 0.1 ppm.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(2) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs if these items may constitute a health hazard within the meaning of 29 CFR 1910.1200(d) under normal conditions of use.

(3) *Labels.* (i) The employer shall assure that hazard warning labels complying with the requirements of 29 CFR 1910.1200(f) are affixed to all containers of materials listed in paragraph (m)(1)(i), except to the extent that 29 CFR 1910.1200(f) is inconsistent with this paragraph.

(ii) *Information on labels.* As a minimum, for all materials listed in paragraph (m)(1)(i) capable of releasing formaldehyde at levels of 0.1 ppm to 0.5 ppm, labels shall identify that the product contains formaldehyde; list the name and address of the responsible party; and state that physical and health hazard information is readily available from the employer and from material safety data sheets.

(iii) For materials listed in paragraph (m)(1)(i) capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all hazards as defined in 29 CFR 1910.1200(d) and 29 CFR 1910.1200 appendices A and B, including respiratory sensitization, and shall contain the words "Potential Cancer Hazard."

(iv) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under

reasonably foreseeable conditions of use.

(v) *Substitute warning labels.* The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this paragraph.

(4) *Material safety data sheets.* (i) Any employer who uses formaldehyde-containing materials listed in paragraph (m)(1)(i) shall comply with the requirements of 29 CFR 1910.1200(g) with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde-containing materials listed in paragraph (m)(1)(i) shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(5) *Written hazard communication program.* The employer shall develop, implement, and maintain at the workplace, a written hazard communication program for formaldehyde exposures in the workplace, which at a minimum describes how the requirements specified in this paragraph for labels and other forms of warning and material safety data sheets, and paragraph (n) for employee information and training, will be met. Employers in multi-employer workplaces shall comply with the requirements of 29 CFR 1910.1200(e)(2).

(n) *Employee information and training.*—(1) *Participation.* The employer shall assure that all employees who are assigned to workplaces where there is exposure to formaldehyde participate in a training program, except that where the employer can show, using objective data, that employees are not exposed to formaldehyde at or above 0.1 ppm, the employer is not required to provide training.

(2) *Frequency.* Employers shall provide such information and training to employees at the time of initial assignment, and whenever a new exposure to formaldehyde is introduced into the work area. The training shall be repeated at least annually.

(3) *Training program.* The training program shall be conducted in a manner which the employee is able to understand and shall include:

(i) A discussion of the contents of this regulation and the contents of the Material Safety Data Sheet.

(ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing and equipment;

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls; and

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency.

(4) *Access to training materials.* (i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the Assistant Secretary and the Director.

(o) *Recordkeeping*—(1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

(i) The date of measurement;

(ii) The operation being monitored;

(iii) The methods of sampling and analysis and evidence of their accuracy and precision;

(iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, social security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(2) *Exposure determinations.* Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(3) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

(i) The name and social security number of the employee;

(ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to

exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(4) *Respirator fit testing.* (i) The employer shall establish and maintain accurate records for employees subject to negative pressure respirator fit testing required by this standard.

(ii) This record shall include:

(A) A copy of the protocol selected for respirator fit testing.

(B) A copy of the results of any fit testing performed.

(C) The size and manufacturer of the types of respirators available for selection.

(D) The date of the most recent fit testing, the name and social security number of each tested employee, and the respirator type and facepiece selected.

(5) *Record retention.* The employer shall retain records required by this standard for at least the following periods:

(i) Exposure records and determinations shall be kept for at least 30 years.

(ii) Medical records shall be kept for the duration of employment plus 30 years.

(iii) Respirator fit testing records shall be kept until replaced by a more recent record.

(6) *Availability of records.* (i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the Assistant Secretary and the Director.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination, and copying to the subject employee, or former employee, and employee representatives in accordance with 29 CFR 1910.20 (a)-(e) and (g)-(i).

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying, to the subject employee or former employee or to anyone having the specific written consent of the

subject employee or former employee in accordance with 29 CFR 1910.20 (a)-(e) and (g)-(i).

(p) *Dates*—(1) *Effective dates*—(i) *General.* This section shall become effective February 2, 1988, except as noted below.

(ii) *Laboratories.* This standard shall become effective for anatomy, histology, and pathology laboratories February 2, 1988, except as noted in the start-up date section. For all other laboratories, paragraphs (a) and (c) of this standard shall become effective February 2, 1988, and paragraphs (b) and (d)-(o) of this standard shall become effective on September 1, 1988 except as noted in the start-up date section.

(2) *Start-up dates*—(i) *Exposure determinations.* Initial monitoring or objective determinations that no monitoring is required by the standard shall be completed by 6 months after the effective date of the standard.

(ii) *Medical surveillance.* The initial medical surveillance of all eligible employees shall be completed by 6 months after the effective date of the standard.

(iii) *Emergencies.* The emergency procedures required by this standard shall be implemented by 6 months after the effective date of the standard.

(iv) *Respiratory protection.* Respiratory protection as required in this standard shall be provided as soon as possible and no later than 9 months after the effective date of the standard.

(v) *Engineering and work practice controls.* Engineering and work practice controls required by this standard shall be implemented as soon as possible, but no later than one year after the effective date of the standard.

(vi) *Employee training.* Written materials for employee training shall be updated as soon as possible, but no later than 2 months after the effective date of the standard.

(3) *Start-up dates of amended paragraphs*—(i) *Respiratory protection.* Respiratory protection required to meet the amended PEL of 0.75 ppm TWA shall be provided as soon as possible but no later than September 24, 1992.

(ii) *Engineering and work practice controls.* Engineering and work practice controls required to meet the amended PEL of 0.75 ppm TWA shall be implemented as soon as possible, but no later than June 26, 1993.

(iii) *Medical removal protection.* The medical removal protection provisions including the multiple physician review mechanism shall be implemented no later than December 28, 1992.

(iv) *Hazard communication.* The labeling provisions contained in

amended paragraph (m) of this standard shall be implemented no later than December 28, 1992. Labeling of containers of formaldehyde products shall continue to comply with the provisions of 29 CFR 1910.1200 (e)-(j) until that time.

(v) **Training.** The periodic training mandated for all employees exposed to formaldehyde between 0.1 ppm and 0.5 ppm shall begin no later than August 25, 1992.

Appendix A to § 1910.1048—Substance Technical Guidelines for Formalin

The following Substance Technical Guideline for Formalin provides information on uninhibited formalin solution (37% formaldehyde, no methanol stabilizer). It is designed to inform employees at the production level of their rights and duties under the formaldehyde standard whether their job title defines them as workers or supervisors. Much of the information provided is general; however, some information is specific for formalin. When employee exposure to formaldehyde is from resins capable of releasing formaldehyde, the resin itself and other impurities or decomposition products may also be toxic, and employers should include this information as well when informing employees of the hazards associated with the materials they handle. The precise hazards associated with exposure to formaldehyde depend both on the form (solid, liquid, or gas) of the material and the concentration of formaldehyde present. For example, 37–50 percent solutions of formaldehyde present a much greater hazard to the skin and eyes from spills or splashes than solutions containing less than 1 percent formaldehyde. Individual Substance Technical Guidelines used by the employer for training employees should be modified to properly give information on the material actually being used.

Substance Identification

Chemical Name: Formaldehyde

Chemical Family: Aldehyde

Chemical Formula: HCHO

Molecular Weight: 30.03

Chemical Abstracts Service Number (CAS Number): 50-00-0

Synonyms: Formalin; Formic Aldehyde; Paraform; Formol; Formalin (Methanol-free); Fyde; Formalith; Methanal; Methyl Aldehyde; Methylene Glycol; Methylene Oxide; Tetraoxymethalene; Oxomethane; Oxymethylene

Components and Contaminants

Percent: 37.0 Formaldehyde

Percent: 63.0 Water

(Note.—Inhibited solutions contain methanol.)

Other Contaminants: Formic acid (alcohol free)

Exposure Limits:

OSHA TWA—1 ppm

OSHA STEL—2 ppm

Physical Data

Description: Colorless liquid, pungent odor

Boiling point: 214 °F (101 °C)

Specific Gravity: 1.08 (H₂O=1 @ 20 °C)

pH: 2.8–4.0

Solubility in Water: Miscible

Solvent Solubility: Soluble in alcohol and acetone

Vapor Density: 1.04 (Air=1 @ 20 °C)

Odor Threshold: 0.8–1 ppm

Fire and Explosion Hazard

Moderate fire and explosion hazard when exposed to heat or flame.

The flash point of 37% formaldehyde solutions is above normal room temperature, but the explosion range is very wide, from 7 to 73% by volume in air.

Reaction of formaldehyde with nitrogen dioxide, nitromethane, perchloric acid and aniline, or peroxyformic acid yields explosive compounds.

Flash Point: 185 °F (85 °C) closed cup

Lower Explosion Limit: 7%

Upper Explosion Limit: 73%

Autoignition Temperature: 808 °F (430 °C)

Flammability Class (OSHA): III A

Extinguishing Media: Use dry chemical, "alcohol foam", carbon dioxide, or water in flooding amounts as fog. Solid streams may not be effective. Cool fire-exposed containers with water from side until well after fire is out.

Use of water spray to flush spills can also dilute the spill to produce nonflammable mixtures. Water runoff, however, should be contained for treatment.

National Fire Protection Association Section 325M Designation:

Health: 2—Materials hazardous to health, but areas may be entered with full-faced mask self-contained breathing apparatus which provides eye protection.

Flammability: 2—Materials which must be moderately heated before ignition will occur. Water spray may be used to extinguish the fire because the material can be cooled below its flash point.

Reactivity: D—Materials which (in themselves) are normally stable even under fire exposure conditions and which are not reactive with water. Normal fire fighting procedures may be used.

Reactivity

Stability: Formaldehyde solutions may self-polymerize to form paraformaldehyde which precipitates.

Incompatibility (Materials to Avoid):

Strong oxidizing agents, caustics, strong alkalies, isocyanates, anhydrides, oxides, and inorganic acids. Formaldehyde reacts with hydrochloric acid to form the potent carcinogen, bis-chloromethyl ether. Formaldehyde reacts with nitrogen dioxide, nitromethane, perchloric acid and aniline, or peroxyformic acid to yield explosive compounds. A violent reaction occurs when formaldehyde is mixed with strong oxidizers.

Hazardous Combustion or Decomposition Products: Oxygen from the air can oxidize formaldehyde to formic acid, especially when heated. Formic acid is corrosive.

Health Hazard Data

Acute Effects of Exposure

Ingestion (Swallowing): Liquids containing 10 to 40% formaldehyde cause severe irritation and inflammation of the mouth, throat, and stomach. Severe stomach pains will follow ingestion with possible loss of consciousness and death. Ingestion of dilute formaldehyde solutions (0.03–0.04%) may cause discomfort in the stomach and pharynx.

Inhalation (Breathing): Formaldehyde is highly irritating to the upper respiratory tract and eyes. Concentrations of 0.5 to 2.0 ppm may irritate the eyes, nose, and throat of some individuals. Concentrations of 3 to 5 ppm also cause tearing of the eyes and are intolerable to some persons. Concentrations of 10 to 20 ppm cause difficulty in breathing, burning of the nose and throat, cough, and heavy tearing of the eyes, and 25 to 30 ppm causes severe respiratory tract injury leading to pulmonary edema and pneumonitis. A concentration of 100 ppm is immediately dangerous to life and health. Deaths from accidental exposure to high concentrations of formaldehyde have been reported.

Skin (Dermal): Formalin is a severe skin irritant and a sensitizer. Contact with formalin causes white discoloration, smarting, drying, cracking, and scaling. Prolonged and repeated contact can cause numbness and a hardening or tanning of the skin. Previously exposed persons may react to future exposure with an allergic eczematous dermatitis or hives.

Eye Contact: Formaldehyde solutions splashed in the eye can cause injuries ranging from transient discomfort to severe, permanent corneal clouding and loss of vision. The severity of the effect depends on the concentration of formaldehyde in the solution and whether or not the eyes are flushed with water immediately after the accident.

Note.—The perception of formaldehyde by odor and eye irritation becomes less sensitive with time as one adapts to formaldehyde. This can lead to overexposure if a worker is relying on formaldehyde's warning properties to alert him or her to the potential for exposure.

Acute Animal Toxicity:

Oral, rats: LD50=800 mg/kg

Oral, mouse: LD50=42 mg/kg

Inhalation, rats: LCLo=250 mg/kg

Inhalation, mouse: LCLo=900 mg/kg

Inhalation, rats: LC50=590 mg/kg

Chronic Effects of Exposure

Carcinogenicity: Formaldehyde has the potential to cause cancer in humans. Repeated and prolonged exposure increases the risk. Various animal experiments have conclusively shown formaldehyde to be a carcinogen in rats. In humans, formaldehyde exposure has been associated with cancers of the lung, nasopharynx and oropharynx, and nasal passages.

Mutagenicity: Formaldehyde is genotoxic in several *in vitro* test systems showing properties of both an initiator and a promoter.

Toxicity: Prolonged or repeated exposure to formaldehyde may result in respiratory impairment. Rats exposed to formaldehyde at 2 ppm developed benign nasal tumors and changes of the cell structure in the nose as well as inflamed mucous membranes of the nose. Structural changes in the epithelial cells in the human nose have also been observed. Some persons have developed asthma or bronchitis following exposure to formaldehyde, most often as the result of an accidental spill involving a single exposure to a high concentration of formaldehyde.

Emergency and First Aid Procedures

Ingestion (Swallowing): If the victim is conscious, dilute, inactivate, or absorb the ingested formaldehyde by giving milk, activated charcoal, or water. Any organic material will inactivate formaldehyde. Keep affected person warm and at rest. Get medical attention immediately. If vomiting occurs, keep head lower than hips.

Inhalation (Breathing): Remove the victim from the exposure area to fresh air immediately. Where the formaldehyde concentration may be very high, each rescuer must put on a self-contained breathing apparatus before attempting to remove the victim, and medical personnel should be informed of the formaldehyde exposure immediately. If breathing has stopped, give artificial respiration. Keep the affected person warm and at rest. Qualified first-aid or medical personnel should administer oxygen, if available, and maintain the patient's airways and blood pressure until the victim can be transported to a medical facility. If exposure results in a highly irritated upper respiratory tract and coughing continues for more than 10 minutes, the worker should be hospitalized for observation and treatment.

Skin Contact: Remove contaminated clothing (including shoes) immediately. Wash the affected area of your body with soap or mild detergent and large amounts of water until no evidence of the chemical remains (at least 15 to 20 minutes). If there are chemical burns, get first aid to cover the area with sterile, dry dressing, and bandages. Get medical attention if you experience appreciable eye or respiratory irritation.

Eye Contact: Wash the eyes immediately with large amounts of water occasionally lifting lower and upper lids, until no evidence of chemical remains (at least 15 to 20 minutes). In case of burns, apply sterile bandages loosely without medication. Get medical attention immediately. If you have experienced appreciable eye irritation from a splash or excessive exposure, you should be referred promptly to an ophthalmologist for evaluation.

Emergency Procedures

Emergencies: If you work in an area where a large amount of formaldehyde could be released in an accident or from equipment failure, your employer must develop procedures to be followed in event of an emergency. You should be trained in your specific duties in the event of an emergency, and it is important that you clearly understand these duties. Emergency equipment must be accessible and you should

be trained to use any equipment that you might need. Formaldehyde contaminated equipment must be cleaned before reuse.

If a spill of appreciable quantity occurs, leave the area quickly unless you have specific emergency duties. Do not touch spilled material. Designated persons may stop the leak and shut off ignition sources if these procedures can be done without risk. Designated persons should isolate the hazard area and deny entry except for necessary people protected by suitable protective clothing and respirators adequate for the exposure. Use water spray to reduce vapors. Do not smoke, and prohibit all flames or flares in the hazard area.

Special Firefighting Procedures: Learn procedures and responsibilities in the event of a fire in your workplace. Become familiar with the appropriate equipment and supplies and their location. In firefighting, withdraw immediately in case of rising sound from venting safety device or any discoloration of storage tank due to fire.

Spill, Leak, and Disposal Procedures

Occupational Spill: For small containers, place the leaking container in a well ventilated area. Take up small spills with absorbent material and place the waste into properly labeled containers for later disposal. For larger spills, dike the spill to minimize contamination and facilitate salvage or disposal. You may be able to neutralize the spill with sodium hydroxide or sodium sulfite. Your employer must comply with EPA rules regarding the clean-up of toxic waste and notify state and local authorities, if required. If the spill is greater than 1,000 lb/day, it is reportable under EPA's Superfund legislation.

Waste Disposal: Your employer must dispose of waste containing formaldehyde in accordance with applicable local, state, and Federal law and in a manner that minimizes exposure of employees at the site and of the clean-up crew.

Monitoring and Measurement Procedures

Monitoring Requirements: If your exposure to formaldehyde exceeds the 0.5 ppm action level or the 2 ppm STEL, your employer must monitor your exposure. Your employer need not measure every exposure if a "high exposure" employee can be identified. This person usually spends the greatest amount of time nearest the process equipment. If you are a "representative employee", you will be asked to wear a sampling device to collect formaldehyde. This device may be a passive badge, a sorbent tube attached to a pump, or an impinger containing liquid. You should perform your work as usual, but inform the person who is conducting the monitoring of any difficulties you are having wearing the device.

Evaluation of 8-hour Exposure: Measurements taken for the purpose of determining time-weighted average (TWA) exposures are best taken with samples covering the full shift. Samples collected must be taken from the employee's breathing zone air.

Short-term Exposure Evaluation: If there are tasks that involve brief but intense exposure to formaldehyde, employee exposure must be measured to assure

compliance with the STEL. Sample collections are for brief periods, only 15 minutes, but several samples may be needed to identify the peak exposure.

Monitoring Techniques: OSHA's only requirement for selecting a method for sampling and analysis is that the methods used accurately evaluate the concentration of formaldehyde in employees' breathing zones. Sampling and analysis may be performed by collection of formaldehyde on liquid or solid sorbents with subsequent chemical analysis. Sampling and analysis may also be performed by passive diffusion monitors and short-term exposure may be measured by instruments such as real-time continuous monitoring systems and portable direct reading instruments.

Notification of Results: Your employer must inform you of the results of exposure monitoring representative of your job. You may be informed in writing, but posting the results where you have ready access to them constitutes compliance with the standard.

Protective Equipment and Clothing

[Material impervious to formaldehyde is needed if the employee handles formaldehyde solutions of 1% or more. Other employees may also require protective clothing or equipment to prevent dermatitis.]

Respiratory Protection: Use NIOSH-approved full facepiece negative pressure respirators equipped with approved cartridges or canisters within the use limitations of these devices. (Present restrictions on cartridges and canisters do not permit them to be used for a full workshift.) In all other situations, use positive pressure respirators such as the positive-pressure air purifying respirator or the self-contained breathing apparatus (SCBA). If you use a negative pressure respirator, your employer must provide you with fit testing of the respirator at least once a year in accordance with the procedures outlined in Appendix E.

Protective Gloves: Wear protective (impervious) gloves provided by your employer, at no cost, to prevent contact with formalin. Your employer should select these gloves based on the results of permeation testing and in accordance with the ACGIH Guidelines for Selection of Chemical Protective Clothing.

Eye Protection: If you might be splashed in the eyes with formalin, it is essential that you wear goggles or some other type of complete protection for the eye. You may also need a face shield if your face is likely to be splashed with formalin, but you must not substitute face shields for eye protection. (This section pertains to formaldehyde solutions of 1% or more.)

Other Protective Equipment: You must wear protective (impervious) clothing and equipment provided by your employer at no cost to prevent repeated or prolonged contact with formaldehyde liquids. If you are required to change into whole-body chemical protective clothing, your employer must provide a change room for your privacy and for storage of your normal clothing.

If you are splashed with formaldehyde, use the emergency showers and eyewash fountains provided by your employer

immediately to prevent serious injury. Report the incident to your supervisor and obtain necessary medical support.

Entry Into an IDLH Atmosphere

Enter areas where the formaldehyde concentration might be 100 ppm or more only with complete body protection including a self-contained breathing apparatus with a full facepiece operated in a positive pressure mode or a supplied air respirator with full facepiece and operated in a positive pressure mode. This equipment is essential to protect your life and health under such extreme conditions.

Engineering Controls

Ventilation is the most widely applied engineering control method for reducing the concentration of airborne substances in the breathing zones of workers. There are two distinct types of ventilation.

Local Exhaust: Local exhaust ventilation is designed to capture airborne contaminants as near to the point of generation as possible. To protect you, the direction of contaminant flow must always be toward the local exhaust system inlet and away from you.

General (Mechanical): General dilution ventilation involves continuous introduction of fresh air into the workroom to mix with the contaminated air and lower your breathing zone concentration of formaldehyde. Effectiveness depends on the number of air changes per hour. Where devices emitting formaldehyde are spread out over a large area, general dilution ventilation may be the only practical method of control.

Work Practices: Work practices and administrative procedures are an important part of a control system. If you are asked to perform a task in a certain manner to limit your exposure to formaldehyde, it is extremely important that you follow these procedures.

Medical Surveillance

Medical surveillance helps to protect employees' health. You are encouraged strongly to participate in the medical surveillance program.

Your employer must make a medical surveillance program available at no expense to you and at a reasonable time and place if you are exposed to formaldehyde at concentrations above 0.5 ppm as an 8-hour average or 2 ppm over any 15-minute period. You will be offered medical surveillance at the time of your initial assignment and once a year afterward as long as your exposure is at least 0.5 ppm (TWA) or 2 ppm (STEL). Even if your exposure is below these levels, you should inform your employer if you have signs and symptoms that you suspect, through your training, are related to your formaldehyde exposure because you may need medical surveillance to determine if your health is being impaired by your exposure.

The surveillance plan includes:

- (a) A medical disease questionnaire.
- (b) A physical examination if the physician determines this is necessary.

If you are required to wear a respirator, your employer must offer you a physical examination and a pulmonary function test every year.

The physician must collect all information needed to determine if you are at increased risk from your exposure to formaldehyde. At the physician's discretion, the medical examination may include other tests, such as a chest x-ray, to make this determination.

After a medical examination the physician will provide your employer with a written opinion which includes any special protective measures recommended and any restrictions on your exposure. The physician must inform you of any medical conditions you have which would be aggravated by exposure to formaldehyde.

All records from your medical examinations, including disease surveys, must be retained at your employer's expense.

Emergencies

If you are exposed to formaldehyde in an emergency and develop signs or symptoms associated with acute toxicity from formaldehyde exposure, your employer must provide you with a medical examination as soon as possible. This medical examination will include all steps necessary to stabilize your health. You may be kept in the hospital for observation if your symptoms are severe to ensure that any delayed effects are recognized and treated.

Appendix B to § 1910.1048—Sampling Strategy and Analytical Methods for Formaldehyde

To protect the health of employees, exposure measurements must be unbiased and representative of employee exposure. The proper measurement of employee exposure requires more than a token commitment on the part of the employer. OSHA's mandatory requirements establish a baseline; under the best of circumstances all questions regarding employee exposure will be answered. Many employers, however, wish to conduct more extensive monitoring before undertaking expensive commitments, such as engineering controls, to assure that the modifications are truly necessary. The following sampling strategy, which was developed at NIOSH by Nelson A. Leidel, Kenneth A. Busch, and Jeremiah R. Lynch and described in NIOSH publication No. 77-173 (Occupational Exposure Sampling Strategy Manual) will assist the employer in developing a strategy for determining the exposure of his or her employees.

There is no one correct way to determine employee exposure. Obviously, measuring the exposure of every employee exposed to formaldehyde will provide the most information on any given day. Where few employees are exposed, this may be a practical solution. For most employers, however, use of the following strategy will give just as much information at less cost.

Exposure data collected on a single day will not automatically guarantee the employer that his or her workplace is always in compliance with the formaldehyde standard. This does not imply, however, that it is impossible for an employer to be sure that his or her worksite is in compliance with the standard. Indeed, a properly designed sampling strategy showing that all employees are exposed below the PELs, at least with a 95 percent certainty, is compelling evidence that the exposure limits are being achieved

provided that measurements are conducted using valid sampling strategy and approved analytical methods.

There are two PELs, the TWA concentration and the STEL. Most employers will find that one of these two limits is more critical in the control of their operations, and OSHA expects that the employer will concentrate monitoring efforts on the critical component. If the more difficult exposure is controlled, this information, along with calculations to support the assumptions, should be adequate to show that the other exposure limit is also being achieved.

Sampling Strategy

Determination of the Need for Exposure Measurements

The employer must determine whether employees may be exposed to concentrations in excess of the action level. This determination becomes the first step in an employee exposure monitoring program that minimizes employer sampling burdens while providing adequate employee protection. If employees may be exposed above the action level, the employer must measure exposure. Otherwise, an objective determination that employee exposure is low provides adequate evidence that exposure potential has been examined.

The employer should examine all available relevant information, eg. insurance company and trade association data and information from suppliers or exposure data collected from similar operations. The employer may also use previously-conducted sampling including area monitoring. The employer must make a determination relevant to each operation although this need not be on a separate piece of paper. If the employer can demonstrate conclusively that no employee is exposed above the action level or the STEL through the use of objective data, the employer need proceed no further on employee exposure monitoring until such time that conditions have changed and the determination is no longer valid.

If the employer cannot determine that employee exposure is less than the action level and the STEL, employee exposure monitoring will have to be conducted.

Workplace Material Survey

The primary purpose of a survey of raw material is to determine if formaldehyde is being used in the work environment and if so, the conditions under which formaldehyde is being used.

The first step is to tabulate all situations where formaldehyde is used in a manner such that it may be released into the workplace atmosphere or contaminate the skin. This information should be available through analysis of company records and information on the MSDSs available through provisions of this standard and the Hazard Communication standard.

If there is an indication from materials handling records and accompanying MSDSs that formaldehyde is being used in the following types of processes or work operations, there may be a potential for releasing formaldehyde into the workplace atmosphere:

(1) Any operation that involves grinding, sanding, sawing, cutting, crushing, screening, sieving, or any other manipulation of material that generates formaldehyde-bearing dust

(2) Any processes where there have been employee complaints or symptoms indicative of exposure to formaldehyde

(3) Any liquid or spray process involving formaldehyde

(4) Any process that uses formaldehyde in preserved tissue

(5) Any process that involves the heating of a formaldehyde-bearing resin.

Processes and work operations that use formaldehyde in these manners will probably require further investigation at the worksite to determine the extent of employee monitoring that should be conducted.

Workplace Observations

To this point, the only intention has been to provide an indication as to the existence of potentially exposed employees. With this information, a visit to the workplace is needed to observe work operations, to identify potential health hazards, and to determine whether any employees may be exposed to hazardous concentrations of formaldehyde.

In many circumstances, sources of formaldehyde can be identified through the sense of smell. However, this method of detection should be used with caution because of olfactory fatigue.

Employee location in relation to source of formaldehyde is important in determining if an employee may be significantly exposed to formaldehyde. In most instances, the closer a worker is to the source, the higher the probability that a significant exposure will occur.

Other characteristics should be considered. Certain high temperature operations give rise to higher evaporation rates. Locations of open doors and windows provide natural ventilation that tend to dilute formaldehyde emissions. General room ventilation also provides a measure of control.

Calculation of Potential Exposure Concentrations

By knowing the ventilation rate in a workplace and the quantity of formaldehyde generated, the employer may be able to determine by calculation if the PELs might be exceeded. To account for poor mixing of formaldehyde into the entire room, locations of fans and proximity of employees to the work operation, the employer must include a safety factor. If an employee is relatively close to a source, particularly if he or she is located downwind, a safety factor of 100 may be necessary. For other situations, a factor of 10 may be acceptable. If the employer can demonstrate through such calculations that employee exposure does not exceed the action level or the STEL, the employer may use this information as objective data to demonstrate compliance with the standard.

Sampling Strategy

Once the employer determines that there is a possibility of substantial employee exposure to formaldehyde, the employer is obligated to measure employee exposure.

The next step is selection of a maximum risk employee. When there are different

processes where employees may be exposed to formaldehyde, a maximum risk employee should be selected for each work operation.

Selection of the maximum risk employee requires professional judgment. The best procedure for selecting the maximum risk employee is to observe employees and select the person closest to the source of formaldehyde. Employee mobility may affect this selection; e.g. if the closest employee is mobile in his tasks, he may not be the maximum risk employee. Air movement patterns and differences in work habits will also affect selection of the maximum risk employee.

When many employees perform essentially the same task, a maximum risk employee cannot be selected. In this circumstance, it is necessary to resort to random sampling of the group of workers. The objective is to select a subgroup of adequate size so that there is a high probability that the random sample will contain at least one worker with high exposure if one exists. The number of persons in the group influences the number that need to be sampled to ensure that at least one individual from the highest 10 percent exposure group is contained in the sample. For example, to have 90 percent confidence in the results, if the group size is 10, nine should be sampled; for 50, only 18 need to be sampled.

If measurement shows exposure to formaldehyde at or above the action level or the STEL, the employer needs to identify all other employees who may be exposed at or above the action level or STEL and measure or otherwise accurately characterize the exposure of these employees.

Whether representative monitoring or random sampling are conducted, the purpose remains the same—to determine if the exposure of any employee is above the action level. If the exposure of the most exposed employee is less than the action level and the STEL, regardless of how the employee is identified, then it is reasonable to assume that measurements of exposure of the other employees in that operation would be below the action level and the STEL.

Exposure Measurements

There is no "best" measurement strategy for all situations. Some elements to consider in developing a strategy are:

- (1) Availability and cost of sampling equipment
- (2) Availability and cost of analytic facilities
- (3) Availability and cost of personnel to take samples
- (4) Location of employees and work operations
- (5) Intraday and interday variations in the process
- (6) Precision and accuracy of sampling and analytic methods, and
- (7) Number of samples needed.

Samples taken for determining compliance with the STEL differ from those that measure the TWA concentration in important ways. STEL samples are best taken in a nonrandom fashion using all available knowledge relating to the area, the individual, and the process to obtain samples during periods of maximum expected concentrations. At least three measurements on a shift are generally

needed to spot gross errors or mistakes; however, only the highest value represents the STEL.

If an operation remains constant throughout the workshift, a much greater number of samples would need to be taken over the 32 discrete nonoverlapping periods in an 8-hour workshift to verify compliance with a STEL. If employee exposure is truly uniform throughout the workshift, however, an employer in compliance with the 1 ppm TWA would be in compliance with the 2 ppm STEL, and this determination can probably be made using objective data.

Need to Repeat the Monitoring Strategy

Interday and intraday fluctuations in employee exposure are mostly influenced by the physical processes that generate formaldehyde and the work habits of the employee. Hence, in-plant process variations influence the employer's determination of whether or not additional controls need to be imposed. Measurements that employee exposure is low on a day that is not representative of worst conditions may not provide sufficient information to determine whether or not additional engineering controls should be installed to achieve the PELs.

The person responsible for conducting sampling must be aware of systematic changes which will negate the validity of the sampling results. Systematic changes in formaldehyde exposure concentration for an employee can occur due to:

- (1) The employee changing patterns of movement in the workplace
- (2) Closing of plant doors and windows
- (3) Changes in ventilation from season to season
- (4) Decreases in ventilation efficiency or abrupt failure of engineering control equipment
- (5) Changes in the production process or work habits of the employee.

Any of these changes, if they may result in additional exposure that reaches the next level of action (i.e. 0.5 or 1.0 ppm as an 8-hr average or 2 ppm over 15 minutes) require the employer to perform additional monitoring to reassess employee exposure.

A number of methods are suitable for measuring employee exposure to formaldehyde or for characterizing emissions within the worksite. The preamble to this standard describes some methods that have been widely used or subjected to validation testing. A detailed analytical procedure derived from the OSHA Method 52 for acrolein and formaldehyde is presented below for informational purposes.

Inclusion of OSHA's method in this appendix in no way implies that it is the only acceptable way to measure employee exposure to formaldehyde. Other methods that are free from significant interferences and that can determine formaldehyde at the permissible exposure limits within ± 25 percent of the "true" value at the 95 percent confidence level are also acceptable. Where applicable, the method should also be capable of measuring formaldehyde at the action level to ± 35 percent of the "true" value with a 95 percent confidence level.

OSHA encourages employers to choose methods that will be best for their individual needs. The employer must exercise caution, however, in choosing an appropriate method since some techniques suffer from interferences that are likely to be present in workplaces of certain industry sectors where formaldehyde is used.

OSHA's Analytical Laboratory Method

Method No: 52

Matrix: Air

Target Concentration: 1 ppm (1.2 mg/m³)

Procedures: Air samples are collected by drawing known volumes of air through sampling tubes containing XAD-2 adsorbent which have been coated with 2-(hydroxymethyl) piperidine. The samples are desorbed with toluene and then analyzed by gas chromatography using a nitrogen selective detector.

Recommended Sampling Rate and Air

Volumes: 0.1 L/min and 24 L

Reliable Quantitation Limit: 16 ppb (20 µg/m³)

Standard Error of Estimate at the Target Concentration: 7.3%

Status of the Method: A sampling and analytical method that has been subjected to the established evaluation procedures of the Organic Methods Evaluation Branch.

Date: March 1985

1. General Discussion

1.1 Background: The current OSHA method for collecting acrolein vapor recommends the use of activated 13X molecular sieves. The samples must be stored in an ice bath during and after sampling and also they must be analyzed within 48 hours of collection. The current OSHA method for collecting formaldehyde vapor recommends the use of bubblers containing 10% methanol in water as the trapping solution.

This work was undertaken to resolve the sample stability problems associated with acrolein and also to eliminate the need to use bubblers to sample formaldehyde. A goal of this work was to develop and/or to evaluate a common sampling and analytical procedure for acrolein and formaldehyde.

NIOSH has developed independent methodologies for acrolein and formaldehyde which recommend the use of reagent-coated adsorbent tubes to collect the aldehydes as stable derivatives. The formaldehyde sampling tubes contain Chromosorb 102 adsorbent coated with N-benzylethanolamine (BEA) which reacts with formaldehyde vapor to form a stable oxazolidine compound. The acrolein sampling tubes contain XAD-2 adsorbent coated with 2-(hydroxymethyl)piperidine (2-HMP) which reacts with acrolein vapor to form a different, stable oxazolidine derivative. Acrolein does not appear to react with BEA to give a suitable reaction product. Therefore, the formaldehyde procedure cannot provide a common method for both aldehydes. However, formaldehyde does react with 2-HMP to form a very suitable reaction product. It is the quantitative reaction of acrolein and formaldehyde with 2-HMP that provides the basis for this evaluation.

This sampling and analytical procedure is very similar to the method recommended by NIOSH for acrolein. Some changes in the

NIOSH methodology were necessary to permit the simultaneous determination of both aldehydes and also to accommodate OSHA laboratory equipment and analytical techniques.

1.2 Limit-defining parameters: The analyte air concentrations reported in this method are based on the recommended air volume for each analyte collected separately and a desorption volume of 1 mL. The amounts are presented as acrolein and/or formaldehyde, even though the derivatives are the actual species analyzed.

1.2.1 Detection limits of the analytical procedure: The detection limit of the analytical procedure was 386 pg per injection for formaldehyde. This was the amount of analyte which gave a peak whose height was about five times the height of the peak given by the residual formaldehyde derivative in a typical blank front section of the recommended sampling tube.

1.2.2 Detection limits of the overall procedure: The detection limits of the overall procedure were 482 ng per sample (16 ppb or 20 µg/m³ for formaldehyde). This was the amount of analyte spiked on the sampling device which allowed recoveries approximately equal to the detection limit of the analytical procedure.

1.2.3 Reliable quantitation limits: The reliable quantitation limit was 482 ng per sample (16 ppb or 20 µg/m³) for formaldehyde. These were the smallest amounts of analyte which could be quantitated within the limits of a recovery of at least 75% and a precision (± 1.96 SD) of $\pm 25\%$ or better.

The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operating parameters.

1.2.4 Sensitivity: The sensitivity of the analytical procedure over concentration ranges representing 0.4 to 2 times the target concentration, based on the recommended air volumes, was 7,589 area units per µg/mL for formaldehyde. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

1.2.5 Recovery: The recovery of formaldehyde from samples used in an 18-day storage test remained above 92% when the samples were stored at ambient temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least 75% following storage.

1.2.6 Precision (analytical method only): The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.4 to 2 times the target concentration was 0.0052 for formaldehyde (Section 4.3).

1.2.7 Precision (overall procedure): The precision at the 95% confidence level for the ambient temperature storage tests was $\pm 14.3\%$ for formaldehyde. These values each

include an additional $\pm 5\%$ for sampling error. The overall procedure must provide results at the target concentrations that are $\pm 25\%$ at the 95% confidence level.

1.2.8 Reproducibility: Samples collected from controlled test atmospheres and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The formaldehyde samples were analyzed following 15 days storage. The average recovery was 96.3% and the standard deviation was 1.7%.

1.3 Advantages:

1.3.1 The sampling and analytical procedures permit the simultaneous determination of acrolein and formaldehyde.

1.3.2 Samples are stable following storage at ambient temperature for at least 18 days.

1.4 Disadvantages: None.

2. Sampling Procedure

2.1 Apparatus:

2.1.1 Samples are collected by use of a personal sampling pump that can be calibrated to within $\pm 5\%$ of the recommended 0.1 L/min sampling rate with the sampling tube in line.

2.1.2 Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane treated glass and is about 8-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with a 75-mg backup section, located nearest the tapered end and a 150-mg sampling section of pretreated XAD-2 adsorbent which has been coated with 2-HMP. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/8 inch OD plastic end caps. Instructions for the pretreatment and the coating of XAD-2 adsorbent are presented in Section 4 of this method.

2.1.3 Sampling tubes, similar to those recommended in this method, are marketed by Supelco, Inc. These tubes were not available when this work was initiated; therefore, they were not evaluated.

2.2 Reagents: None required.

2.3 Technique:

2.3.1 Properly label the sampling tube before sampling and then remove the plastic end caps.

2.3.2 Attach the sampling tube to the pump using a section of flexible plastic tubing such that the large, front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

2.3.3 After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps.

2.3.4 Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

2.3.5 List any potential interferences on the sample data sheet.

2.4 Breakthrough:

2.4.1 Breakthrough was defined as the relative amount of analyte found on a backup sample in relation to the total amount of analyte collected on the sampling train.

2.4.2 For formaldehyde collected from test atmospheres containing 6 times the PEL, the average 5% breakthrough air volume was 41 L. The sampling rate was 0.1 L/min and the average mass of formaldehyde collected was 250 µg.

2.5 *Desorption Efficiency*: No desorption efficiency corrections are necessary to compute air sample results because analytical standards are prepared using coated adsorbent. Desorption efficiencies were determined, however, to investigate the recoveries of the analytes from the sampling device. The average recovery over the range of 0.4 to 2 times the target concentration, based on the recommended air volumes, was 96.2% for formaldehyde. Desorption efficiencies were essentially constant over the ranges studied.

2.6 Recommended Air Volume and Sampling Rate:

2.6.1 The recommended air volume for formaldehyde is 24 L.

2.6.2 The recommended sampling rate is 0.1 L/min.

2.7 Interferences:

2.7.1 Any collected substance that is capable of reacting 2-HMP and thereby depleting the derivatizing agent is a potential interference. Chemicals which contain a carbonyl group, such as acetone, may be capable of reacting with 2-HMP.

2.7.2 There are no other known interferences to the sampling method.

2.8 Safety Precautions:

2.8.1 Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

2.8.2 Follow all safety practices that apply to the work area being sampled.

3. Analytical Procedure

3.1 Apparatus:

3.1.1 A gas chromatograph (GC), equipped with a nitrogen selective detector. A Hewlett-Packard Model 5840A GC fitted with a nitrogen-phosphorus flame ionization detector (NPD) was used for this evaluation. Injections were performed using a Hewlett-Packard Model 7671A automatic sampler.

3.1.2 A GC column capable of resolving the analytes from any interference. A 6 ft x 1/4 in OD (2 mm ID) glass GC column containing 10% UCON 50-HB-5100 + 2% KOH on 80/100 mesh Chromosorb W-AW was used for the evaluation. Injections were performed on-column.

3.1.3 Vials, glass 2-mL with Teflon-lined caps.

3.1.4 Volumetric flasks, pipets, and syringes for preparing standards, making dilutions, and performing injections.

3.2 Reagents:

3.2.1 Toluene and dimethylformamide. Burdick and Jackson solvents were used in this evaluation.

3.2.2 Helium, hydrogen, and air, GC grade.

3.2.3 Formaldehyde, 37%, by weight, in water. Aldrich Chemical, ACS Reagent Grade formaldehyde was used in this evaluation.

3.2.4 Amberlite XAD-2 adsorbent coated with 2-(hydroxymethyl)-piperidine (2-HMP), 10% by weight (Section 4).

3.2.5 Desorbing solution with internal standard. This solution was prepared by adding 20 µL of dimethylformamide to 100 mL of toluene.

3.3 Standard preparation:

3.3.1 *Formaldehyde*: Prepare stock standards by diluting known volumes of 37% formaldehyde solution with methanol. A procedure to determine the formaldehyde content of these standards is presented in Section 4. A standard containing 7.7 mg/mL formaldehyde was prepared by diluting 1 mL of the 37% reagent to 50 mL with methanol.

3.3.2 It is recommended that analytical standards be prepared about 16 hours before the air samples are to be analyzed in order to ensure the complete reaction of the analytes with 2-HMP. However, rate studies have shown the reaction to be greater than 95% complete after 4 hours. Therefore, one or two standards can be analyzed after this reduced time if sample results are outside the concentration range of the prepared standards.

3.3.3 Place 150-mg portions of coated XAD-2 adsorbent, from the same lot number as used to collect the air samples, into each of several glass 2-mL vials. Seal each vial with a Teflon-lined cap.

3.3.4 Prepare fresh analytical standards each day by injecting appropriate amounts of the diluted analyte directly onto 150-mg portions of coated adsorbent. It is permissible to inject both acrolein and formaldehyde on the same adsorbent portion. Allow the standards to stand at room temperature. A standard, approximately the target levels, was prepared by injecting 11 µL of the acrolein and 12 µL of the formaldehyde stock standards onto a single coated XAD-2 adsorbent portion.

3.3.5 Prepare a sufficient number of standards to generate the calibration curves. Analytical standard concentrations should bracket sample concentrations. Thus, if samples are not in the concentration range of the prepared standards, additional standards must be prepared to determine detector response.

3.3.7 Desorb the standards in the same manner as the samples following the 16-hour reaction time.

3.4 Sample preparation:

3.4.1 Transfer the 150-mg section of the sampling tube to a 2-mL vial. Place the 75-mg section in a separate vial. If the glass wool plugs contain a significant number of adsorbent beads, place them with the appropriate sampling tube section. Discard the glass wool plugs if they do not contain a significant number of adsorbent beads.

3.4.2 Add 1 mL of desorbing solution to each vial.

3.4.3 Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand with vigorous force several times during the desorption time.

3.4.4 Save the used sampling tubes to be cleaned and recycled.

3.5 Analysis:

3.5.1 GC Conditions

Column Temperature:

Bi-level temperature program—First level: 100 to 140 °C at 4 °C/min following completion of the first level.

Second level: 140 to 180 °C at 20 °C/min following completion of the first level.

Isothermal period: Hold column at 180 °C until the recorder pen returns to baseline (usually about 25 min after injection).

Injector temperature: 180 °C

Helium flow rate: 30 mL/min (detector response will be reduced if nitrogen is substituted for helium carrier gas).

Injection volume: 0.8 µL

GC column: Six-ft x 1/4-in OD (2 mm ID) glass GC column containing 10% UCON 50-HB-5100 + 2% KOH on 80/100 Chromosorb W-AW.

NPD conditions:

Hydrogen flow rate: 3 mL/min

Air flow rate: 50 mL/min

Detector temperature: 275 °C

3.5.2 *Chromatogram*: For an example of a typical chromatogram, see Figure 4.11 in OSHA Method 52.

3.5.3 Use a suitable method, such as electronic integration, to measure detector response.

3.5.4 Use an internal standard method to prepare the calibration curve with several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report results in µg/mL.

3.5.5 Bracket sample concentrations with standards.

3.6 Interferences (Analytical)

3.6.1 Any compound with the same general retention time as the analytes and which also gives a detector response is a potential interference. Possible interferences should be reported to the laboratory with submitted samples by the industrial hygienist.

3.6.2 GC parameters (temperature, column, etc.) may be changed to circumvent interferences.

3.6.3 A useful means of structure designation is GC/MS. It is recommended this procedure be used to confirm samples whenever possible.

3.6.4 The coated adsorbent usually contains a very small amount of residual formaldehyde derivative (Section 4.8).

3.7 Calculations:

3.7.1 Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

3.7.2 The concentration, in µg/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If either of the analytes is found on the backup section, it is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

3.7.3 The acrolein and/or formaldehyde air concentration can be expressed using the following equation:

$$\text{mg/m}^3 = (A)(B)/C$$

where A = µg/mL from 3.7.2, B = desorption volume, and C = L of air sampled.

No desorption efficiency corrections are required.

3.7.4 The following equation can be used to convert results in mg/m^3 to ppm.

$$\text{ppm} = (\text{mg}/\text{m}^3)(24.45)/\text{MW}$$

where mg/m^3 = result from 3.7.3, 24.45 = molar volume of an ideal gas at 760 mm Hg and 25 °C, MW = molecular weight (30.0).

4. Backup Data

4.1 Backup data on detection limits, reliable quantitation limits, sensitivity and precision of the analytical method, breakthrough, desorption efficiency, storage, reproducibility, and generation of test atmospheres are available in OSHA Method 52, developed by the Organics Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah.

4.2 Procedure to Coat XAD-2 Adsorbent with 2-HMP

4.2.1 Apparatus: Soxhlet extraction apparatus, rotary evaporation apparatus, vacuum desiccator, 1-L vacuum flask, 1-L round-bottomed evaporative flask, 1-L Erlenmeyer flask, 250-mL Buchner funnel with a coarse fritted disc, etc.

4.2.2 Reagents:

4.2.2.1 Methanol, isooctane, and toluene.
4.2.2.2 2-(Hydroxymethyl)piperidine.
4.2.2.3 Amberlite XAD-2 non-ionic polymeric adsorbent, 20 to 60 mesh, Aldrich Chemical XAD-2 was used in this evaluation.

4.2.3 Procedure: Weigh 125 g of crude XAD-2 adsorbent into a 1-L Erlenmeyer flask. Add about 200 mL of water to the flask and then swirl the mixture to wash the adsorbent. Discard any adsorbent that floats to the top of the water and then filter the mixture using a fritted Buchner funnel. Air dry the adsorbent for 2 minutes. Transfer the adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent to a 1-L round-bottomed evaporative flask, add 13 g of 2-HMP and then 200 mL of methanol, swirl the mixture and then allow it to stand for one hour. Remove the methanol at about 40 °C and reduced pressure using a rotary evaporation apparatus. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator at room temperature overnight. Transfer the coated adsorbent to a Soxhlet extractor and then extract the material with toluene for about 24 hours. Discard the contaminated toluene, add methanol in its place and then continue the Soxhlet extraction for an additional 4 hours. Transfer the adsorbent to a weighted 1-L round-bottom evaporative flask and remove the methanol using the rotary evaporation apparatus. Determine the weight of the adsorbent and then add an amount of 2-HMP, which is 10% by weight of the adsorbent. Add 200 mL of methanol and then swirl the

mixture. Allow the mixture to stand for one hour. Remove the methanol by rotary evaporation. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator until all traces of solvents are gone. Typically, this will take 2-3 days. The coated adsorbent should be protected from contamination. XAD-2 adsorbent treated in this manner will probably not contain residual acrolein derivative. However, this adsorbent will often contain residual formaldehyde derivative levels of about 0.1 μg per 150 mg of adsorbent. If the blank values for a batch of coated adsorbent are too high, then the batch should be returned to the Soxhlet extractor, extracted with toluene again and then re-coated. This process can be repeated until the desired blank levels are attained.

The coated adsorbent is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number. A sufficient amount of each lot number of coated adsorbent should be retained to prepare analytical standards for use with air samples from that lot number.

4.3 A Procedure to Determine Formaldehyde by Acid Titration: Standardize the 0.1 N HCl solution using sodium carbonate and methyl orange indicator.

Place 50 mL of 0.1 M sodium sulfite and three drops of thymolphthalein indicator into a 250-mL Erlenmeyer flask. Titrate the contents of the flask to a colorless endpoint with 0.1 N HCl (usually one or two drops is sufficient). Transfer 10 mL of the formaldehyde/methanol solution (prepared in 3.3.1) into the same flask and titrate the mixture with 0.1 N HCl, again, to a colorless endpoint. The formaldehyde concentration of the standard may be calculated by the following equation:

$$\frac{\text{Formaldehyde, mg/ mL}}{\text{acid titer} \times \text{acid normality} \times 30.0} = \text{mL of sample}$$

This method is based on the quantitative liberation of sodium hydroxide when formaldehyde reacts with sodium sulfite to form the formaldehyde-bisulfite addition product. The volume of sample may be varied depending on the formaldehyde content but the solution to be titrated must contain excess sodium sulfite. Formaldehyde solutions containing substantial amounts of acid or base must be neutralized before analysis.

Appendix C to § 1910.1048—Medical Surveillance—Formaldehyde

1. Health Hazards

The occupational health hazards of

formaldehyde are primarily due to its toxic effects after inhalation, after direct contact with the skin or eyes by formaldehyde in liquid or vapor form, and after ingestion.

II. Toxicology

A. Acute Effects of Exposure

1. *Inhalation (breathing):* Formaldehyde is highly irritating to the upper airways. The concentration of formaldehyde that is immediately dangerous to life and health is 100 ppm. Concentrations above 50 ppm can cause severe pulmonary reactions within minutes. These include pulmonary edema, pneumonia, and bronchial irritation which can result in death. Concentrations above 5 ppm readily cause lower airway irritation characterized by cough, chest tightness and wheezing. There is some controversy regarding whether formaldehyde gas is a pulmonary sensitizer which can cause occupational asthma in a previously normal individual. Formaldehyde can produce symptoms of bronchial asthma in humans. The mechanism may be either sensitization of the individual by exposure to formaldehyde or direct irritation by formaldehyde in persons with pre-existing asthma. Upper airway irritation is the most common respiratory effect reported by workers and can occur over a wide range of concentrations, most frequently above 1 ppm. However, airway irritation has occurred in some workers with exposures to formaldehyde as low as 0.1 ppm. Symptoms of upper airway irritation include dry or sore throat, itching and burning sensations of the nose, and nasal congestion. Tolerance to this level of exposure may develop within 1-2 hours. This tolerance can permit workers remaining in an environment of gradually increasing formaldehyde concentrations to be unaware of their increasingly hazardous exposure.

2. *Eye contact:* Concentrations of formaldehyde between 0.05 ppm and 0.5 ppm produce a sensation of irritation in the eyes with burning, itching, redness, and tearing. Increased rate of blinking and eye closure generally protects the eye from damage at these low levels, but these protective mechanisms may interfere with some workers' work abilities. Tolerance can occur in workers continuously exposed to concentrations of formaldehyde in this range. Accidental splash injuries of human eyes to aqueous solutions of formaldehyde (formalin) have resulted in a wide range of ocular injuries including corneal opacities and blindness. The severity of the reactions have been directly dependent on the concentration of formaldehyde in solution and the amount of time lapsed before emergency and medical intervention.

3. *Skin contact:* Exposure to formaldehyde solutions can cause irritation of the skin and allergic contact dermatitis. These skin

diseases and disorders can occur at levels well below those encountered by many formaldehyde workers. Symptoms include erythema, edema, and vesiculation or hives. Exposure to liquid formalin or formaldehyde vapor can provoke skin reactions in sensitized individuals even when airborne concentrations of formaldehyde are well below 1 ppm.

4. *Ingestion:* Ingestion of as little as 30 ml of a 37 percent solution of formaldehyde (formalin) can result in death. Gastrointestinal toxicity after ingestion is most severe in the stomach and results in symptoms which can include nausea, vomiting, and severe abdominal pain. Diverse damage to other organ systems including the liver, kidney, spleen, pancreas, brain, and central nervous systems can occur from the acute response to ingestion of formaldehyde.

B. Chronic Effects of Exposure

Long term exposure to formaldehyde has been shown to be associated with an increased risk of cancer of the nose and accessory sinuses, nasopharyngeal and oropharyngeal cancer, and lung cancer in humans. Animal experiments provide conclusive evidence of a causal relationship between nasal cancer in rats and formaldehyde exposure. Concordant evidence of carcinogenicity includes DNA binding, genotoxicity in short-term tests, and cytotoxic changes in the cells of the target organ suggesting both preneoplastic changes and a dose-rate effect. Formaldehyde is a complete carcinogen and appears to exert an effect on at least two stages of the carcinogenic process.

III. Surveillance considerations

A. History

1. *Medical and occupational history:* Along with its acute irritative effects, formaldehyde can cause allergic sensitization and cancer. One of the goals of the work history should be to elicit information on any prior or additional exposure to formaldehyde in either the occupational or the non-occupational setting.

2. *Respiratory history:* As noted above, formaldehyde has recognized properties as an airway irritant and has been reported by some authors as a cause of occupational asthma. In addition, formaldehyde has been associated with cancer of the entire respiratory system of humans. For these reasons, it is appropriate to include a comprehensive review of the respiratory system in the medical history. Components of this history might include questions regarding dyspnea on exertion, shortness of breath, chronic airway complaints, hyperreactive airway disease, rhinitis, bronchitis, bronchiolitis, asthma, emphysema, respiratory allergic reaction, or other preexisting pulmonary disease.

In addition, generalized airway hypersensitivity can result from exposures to a single sensitizing agent. The examiner should, therefore, elicit any prior history of exposure to pulmonary irritants, and any short- or long-term effects of that exposure.

Smoking is known to decrease mucociliary clearance of materials deposited during

respiration in the nose and upper airways. This may increase a worker's exposure to inhaled materials such as formaldehyde vapor. In addition, smoking is a potential confounding factor in the investigation of any chronic respiratory disease, including cancer. For these reasons, a complete smoking history should be obtained.

3. *Skin Disorders:* Because of the dermal irritant and sensitizing effects of formaldehyde, a history of skin disorders should be obtained. Such a history might include the existence of skin irritation, previously documented skin sensitivity, and other dermatologic disorders. Previous exposure to formaldehyde and other dermal sensitizers should be recorded.

4. *History of atopic or allergic diseases:* Since formaldehyde can cause allergic sensitization of the skin and airways, it might be useful to identify individuals with prior allergen sensitization. A history of atopic disease and allergies to formaldehyde or any other substances should also be obtained. It is not definitely known at this time whether atopic diseases and allergies to formaldehyde or any other substances should also be obtained. Also it is not definitely known at this time whether atopic individuals have a greater propensity to develop formaldehyde sensitivity than the general population, but identification of these individuals may be useful for ongoing surveillance.

5. *Use of disease questionnaires:* Comparison of the results from previous years with present results provides the best method for detecting a general deterioration in health when toxic signs and symptoms are measured subjectively. In this way recall bias does not affect the results of the analysis. Consequently, OSHA has determined that the findings of the medical and work histories should be kept in a standardized form for comparison of the year-to-year results.

B. Physical Examination

1. *Mucosa of eyes and airways:* Because of the irritant effects of formaldehyde, the examining physician should be alert to evidence of this irritation. A speculum examination of the nasal mucosa may be helpful in assessing possible irritation and cytotoxic changes, as may be indirect inspection of the posterior pharynx by mirror.

2. *Pulmonary system:* A conventional respiratory examination, including inspection of the thorax and auscultation and percussion of the lung fields should be performed as part of the periodic medical examination. Although routine pulmonary function testing is only required by the standard once every year for persons who are exposed over the TWA concentration limit, these tests have an obvious value in investigating possible respiratory dysfunction and should be used wherever deemed appropriate by the physician. In cases of alleged formaldehyde-induced airway disease, other possible causes of pulmonary dysfunction (including exposures to other substances) should be ruled out. A chest radiograph may be useful in these circumstances. In cases of suspected airway hypersensitivity or allergy, it may be appropriate to use bronchial challenge testing with formaldehyde or methacholine to determine the nature of the disorder. Such testing should be performed by or under the

supervision of a physician experienced in the procedures involved.

3. *Skin:* The physician should be alert to evidence of dermal irritation of sensitization, including reddening and inflammation, urticaria, blistering, scaling, formation of skin fissures, or other symptoms. Since the integrity of the skin barrier is compromised by other dermal diseases, the presence of such disease should be noted. Skin sensitivity testing carries with it some risk of inducing sensitivity, and therefore, skin testing for formaldehyde sensitivity should not be used as a routine screening test. Sensitivity testing may be indicated in the investigation of a suspected existing sensitivity. Guidelines for such testing have been prepared by the North American Contact Dermatitis Group.

C. Additional Examinations or Tests

The physician may deem it necessary to perform other medical examinations or tests as indicated. The standard provides a mechanism whereby these additional investigations are covered under the standard for occupational exposure to formaldehyde.

D. Emergencies

The examination of workers exposed in an emergency should be directed at the organ systems most likely to be affected. Much of the content of the examination will be similar to the periodic examination unless the patient has received a severe acute exposure requiring immediate attention to prevent serious consequences. If a severe overexposure requiring medical intervention or hospitalization has occurred, the physician must be alert to the possibility of delayed symptoms. Followup nonroutine examinations may be necessary to assure the patient's well-being.

E. Employer Obligations

The employer is required to provide the physician with the following information: A copy of this standard and appendices A, C, D, and E; a description of the affected employee's duties as they relate to his or her exposure concentration; an estimate of the employee's exposure including duration (e.g., 15 hr/wk, three 8-hour shifts, full-time); a description of any personal protective equipment, including respirators, used by the employee; and the results of any previous medical determinations for the affected employee related to formaldehyde exposure to the extent that this information is within the employer's control.

F. Physician's Obligations

The standard requires the employer to obtain a written statement from the physician. This statement must contain the physician's opinion as to whether the employee has any medical condition which would place him or her at increased risk of impaired health from exposure to formaldehyde or use of respirators, as appropriate. The physician must also state his opinion regarding any restrictions that should be placed on the employee's exposure to formaldehyde or upon the use of protective clothing or equipment such as respirators. If the employee wears a respirator as a result of his or her exposure to formaldehyde, the

physician's opinion must also contain a statement regarding the suitability of the employee to wear the type of respirator assigned. Finally, the physician must inform the employer that the employee has been told the results of the medical examination and of any medical conditions which require further explanation or treatment. This written opinion is not to contain any information on specific findings or diagnoses unrelated to occupational exposure to formaldehyde.

The purpose in requiring the examining physician to supply the employer with a written opinion is to provide the employer with a medical basis to assist the employer in placing employees initially, in assuring that their health is not being impaired by formaldehyde, and to assess the employee's ability to use any required protective equipment.

Appendix D to § 1910.1048—Nonmandatory Medical Disease Questionnaire

A. Identification

Plant Name _____
 Date _____
 Employee Name _____
 S.S. # _____
 Job Title _____
 Birthdate: _____
 Age: _____
 Sex: _____
 Height: _____
 Weight: _____

B. Medical History

1. Have you ever been in the hospital as a patient?
 Yes ☐ No ☐
 If yes, what kind of problem were you having? _____
2. Have you ever had any kind of operation?
 Yes ☐ No ☐
 If yes, what kind? _____
3. Do you take any kind of medicine regularly?
 Yes ☐ No ☐
 If yes, what kind? _____
4. Are you allergic to any drugs, foods, or chemicals?
 Yes ☐ No ☐
 If yes, what kind of allergy is it? _____
 What causes the allergy? _____
5. Have you ever been told that you have asthma, hayfever, or sinusitis?
 Yes ☐ No ☐
6. Have you ever been told that you have emphysema, bronchitis, or any other respiratory problems?
 Yes ☐ No ☐
7. Have you ever been told you had hepatitis?
 Yes ☐ No ☐
8. Have you ever been told that you had cirrhosis?
 Yes ☐ No ☐
9. Have you ever been told that you had cancer?
 Yes ☐ No ☐
10. Have you ever had arthritis or joint pain?
 Yes ☐ No ☐

11. Have you ever been told that you had high blood pressure?
 Yes ☐ No ☐
12. Have you ever had a heart attack or heart trouble?
 Yes ☐ No ☐

B-1. Medical History Update

1. Have you been in the hospital as a patient any time within the past year?
 Yes ☐ No ☐
 If so, for what condition? _____
2. Have you been under the care of a physician during the past year?
 Yes ☐ No ☐
 If so, for what condition? _____
3. Is there any change in your breathing since last year?
 Yes ☐ No ☐
 Better? _____
 Worse? _____
 No change? _____
 If change, do you know why? _____
4. Is your general health different this year from last year?
 Yes ☐ No ☐
 If different, in what way? _____
5. Have you in the past year or are you now taking any medication on a regular basis?
 Yes ☐ No ☐
 Name Rx _____
 Condition being treated: _____

C. Occupational History

1. How long have you worked for your present employer? _____
2. What jobs have you held with this employer? Include job title and length of time in each job. _____
3. In each of these jobs, how many hours a day were you exposed to chemicals? _____
4. What chemicals have you worked with most of the time? _____
5. Have you ever noticed any type of skin rash you feel was related to your work?
 Yes ☐ No ☐
6. Have you ever noticed that any kind of chemical makes you cough?
 Yes ☐ No ☐
 Wheeze?
 Yes ☐ No ☐
 Become short of breath or cause your chest to become tight?
 Yes ☐ No ☐
7. Are you exposed to any dust or chemicals at home?
 Yes ☐ No ☐
 If yes, explain: _____
8. In other jobs, have you ever had exposure to:
 Wood dust? _____
 Yes ☐ No ☐
 Nickel or chromium?
 Yes ☐ No ☐
 Silica (foundry, sand blasting)?
 Yes ☐ No ☐

Arsenic or asbestos?

Yes ☐ No ☐

Organic solvents?

Yes ☐ No ☐

Urethane foams?

Yes ☐ No ☐

C-1. Occupational History Update

1. Are you working on the same job this year as you were last year?
 Yes ☐ No ☐
 If not, how has your job changed? _____
2. What chemicals are you exposed to on your job? _____
3. How many hours a day are you exposed to chemicals? _____
4. Have you noticed any skin rash within the past year you feel was related to your work?
 Yes ☐ No ☐
 If so, explain circumstances: _____
5. Have you noticed that any chemical makes you cough, be short of breath, or wheeze?
 Yes ☐ No ☐
 If so, can you identify it? _____

D. Miscellaneous

1. Do you smoke?
 Yes ☐ No ☐
 If so, how much and for how long? _____
 Pipe _____
 Cigars _____
 Cigarettes _____
2. Do you drink alcohol in any form?
 Yes ☐ No ☐
 If so, how much, how long, and how often? _____
3. Do you wear glasses or contact lenses?
 Yes ☐ No ☐
4. Do you get any physical exercise other than that required to do your job?
 Yes ☐ No ☐
 If so, explain: _____
5. Do you have any hobbies or "side jobs" that require you to use chemicals, such as furniture stripping, sand blasting, insulation or manufacture of urethane foam, furniture, etc?
 Yes ☐ No ☐
 If so, please describe, giving type of business or hobby, chemicals used and length of exposures. _____

E. Symptoms Questionnaire

1. Do you ever have any shortness of breath?
 Yes ☐ No ☐
 If yes, do you have to rest after climbing several flights of stairs?
 Yes ☐ No ☐
 If yes, if you walk on the level with people your own age, do you walk slower than they do?
 Yes ☐ No ☐
 If yes, if you walk slower than a normal pace, do you have to limit the distance that you walk?
 Yes ☐ No ☐
 If yes, do you have to stop and rest while bathing or dressing?
 Yes ☐ No ☐

- Yes ☐ No ☐
2. Do you cough as much as three months out of the year?
Yes ☐ No ☐
If yes, have you had this cough for more than two years?
Yes ☐ No ☐
If yes, do you ever cough anything up from chest?
Yes ☐ No ☐
3. Do you ever have a feeling of smothering, unable to take a deep breath, or tightness in your chest?
Yes ☐ No ☐
If yes, do you notice that this on any particular day of the week?
Yes ☐ No ☐
If yes, what day or the week?
Yes ☐ No ☐
If yes, do you notice that this occurs at any particular place?
Yes ☐ No ☐
If yes, do you notice that this is worse after you have returned to work after being off for several days?
Yes ☐ No ☐
4. Have you ever noticed any wheezing in your chest?
Yes ☐ No ☐
If yes, is this only with colds or other infections?
Yes ☐ No ☐
Is this caused by exposure to any kind of dust or other material?
Yes ☐ No ☐
If yes, what kind? _____
5. Have you noticed any burning, tearing, or redness of your eyes when you are at work?
Yes ☐ No ☐
If so, explain circumstances: _____
6. Have you noticed any sore or burning throat or itchy or burning nose when you are at work?
Yes ☐ No ☐
If so, explain circumstances: _____
7. Have you noticed any stuffiness or dryness of your nose?
Yes ☐ No ☐
8. Do you ever have swelling of the eyelids or face?
Yes ☐ No ☐
9. Have you ever been jaundiced?
Yes ☐ No ☐
If yes, was this accompanied by any pain?
Yes ☐ No ☐
10. Have you ever had a tendency to bruise easily or bleed excessively?
Yes ☐ No ☐
11. Do you have frequent headaches that are not relieved by aspirin or tylenol?
Yes ☐ No ☐
If yes, do they occur at any particular time of the day or week?
Yes ☐ No ☐
If yes, when do they occur? _____
12. Do you have frequent episodes of nervousness or irritability?
Yes ☐ No ☐
13. Do you tend to have trouble concentrating or remembering?
Yes ☐ No ☐

14. Do you ever feel dizzy, light-headed, excessively drowsy or like you have been drugged?
Yes ☐ No ☐
15. Does your vision ever become blurred?
Yes ☐ No ☐
16. Do you have numbness or tingling of the hands or feet or other parts of your body?
Yes ☐ No ☐
17. Have you ever had chronic weakness or fatigue?
Yes ☐ No ☐
18. Have you ever had any swelling of your feet or ankles to the point where you could not wear your shoes?
Yes ☐ No ☐
19. Are you bothered by heartburn or indigestion?
Yes ☐ No ☐
20. Do you ever have itching, dryness, or peeling and scaling of the hands?
Yes ☐ No ☐
21. Do you ever have a burning sensation in the hands, or reddening of the skin?
Yes ☐ No ☐
22. Do you ever have cracking or bleeding of the skin on your hands?
Yes ☐ No ☐
23. Are you under a physician's care?
Yes ☐ No ☐
If yes, for what are you being treated? _____
24. Do you have any physical complaints today?
Yes ☐ No ☐
If yes, explain? _____
25. Do you have other health conditions not covered by these questions?
Yes ☐ No ☐
If yes, explain: _____

Appendix E to § 1910.1048—Qualitative and Quantitative Fit Testing Procedures

1. FIT Test Protocols

Because exposure to formaldehyde can affect the employee's ability to detect common odorants, fit test results from the isoamyl acetate test must be augmented by results from either the saccharin or irritant smoke test.

A. The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT).

1. The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece; and units from at least two manufacturers.

2. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

3. The test subject shall be informed that he/she is being asked to select the respirator

which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.

4. The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

5. The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in item 6 below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

6. Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (a) position of the mask on the nose.
- (b) room for eye protection.
- (c) room to talk.
- (d) position of mask on face and cheeks.

7. The following criteria shall be used to help determine the adequacy of the respirator fit:

- (a) chin properly placed;
- (b) adequate strap tension, not overly tightened;
- (c) fit across nose bridge;
- (d) respirator of proper size to span distance from nose to chin;
- (e) tendency of respirator to slip;
- (f) self-observation in mirror to evaluate fit and respirator position.

8. The test subject shall conduct the negative and positive pressure fit checks as described below or ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(a) *Positive pressure test.* Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(b) *Negative pressure test.* Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

9. The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which

cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

10. If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

11. The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

12. The employer shall certify that a successful fit test has been administered to the employee. The certification shall include the following information:

- (a) Name of employee;
- (b) Type, brand and size of respirator; and
- (c) Date of test;

Where QNFT is used, the fit factor, strip chart, or other recording of the results of the test, shall be retained with the certification. The certification shall be maintained until the next fit test is administered.

13. Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure.

The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least 5 minutes before the start of the fit test.

14. Test Exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(a) *Normal breathing.* In a normal standing position, without talking, the subject shall breathe normally.

(b) *Deep breathing.* In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(c) *Turning head side to side.* Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(d) *Moving head up and down.* Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(e) *Talking.* The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song.

(f) *Grimace.* The test subject shall grimace by smiling or frowning.

(g) *Bending over.* The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(h) *Normal breathing.* Same as exercise 1.

Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for 15 seconds.

The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

B. Qualitative Fit Test (QLFT) Protocols

1. *General.* (a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(b) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(c) The employer shall assure the QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

2. *Isoamyl Acetate Protocol—(a) Odor threshold screening.* The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(1) Three 1-liter glass jars with metal lids are required.

(2) Odor free water (e.g., distilled or spring water) at approximately 25 degrees C shall be used for the solutions.

(3) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1 liter jar and shaking for 30 seconds. A new solution shall be prepared at least weekly.

(4) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(5) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clear dropper or pipette. The solution shall be shaken for 30 seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(6) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(7) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(8) The following instruction shall be typed on a card and placed on the table in front of the two jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contain a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(9) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(10) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(11) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(b) *Isoamyl acetate fit test.* (1) The fit test chamber shall be similar to a clear 55-gallon drum liner suspended inverted over a 2-foot diameter frame so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(2) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(3) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(4) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(5) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(6) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(7) If at any time during the test, the subject detects the banana like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(8) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (1) through (7) above. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(9) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(10) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so

there is no significant IAA concentration build-up in the test chamber during subsequent tests.

3. *Saccharin Solution Aerosol Protocol.* The saccharin solution aerosol QLFT protocol is the only currently available, validated test protocol for use with particulate disposable dust respirators not equipped with high-efficiency filters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) *Taste threshold screening.* The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(1) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(2) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(3) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(4) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the *threshold check solution* into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(5) The *threshold check solution* consists of 0.83 grams of sodium saccharin USP in 1 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (b)(5) below) in 100 cc of distilled water.

(6) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(7) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(8) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(9) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(10) The test conductor will take note of the number of squeezes required to solicit a taste response.

(11) If the saccharin is not tasted after 30 squeezes (step 10), the test subject may not perform the saccharin fit test.

(12) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(13) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(14) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at

least each morning and afternoon or at least every four hours.

(b) *Saccharin solution aerosol fit test procedure.* (1) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure described in (a) above.

(3) The test subject shall don the enclosure while wearing the respirator selected in section (a) above. The respirator shall be properly adjusted and equipped with a particular filter(s).

(4) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(5) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(6) As before, the test subject shall breathe through the open mouth with tongue extended.

(7) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(8) After generating the aerosol the test subject shall be instructed to perform the exercises in section I. A. 14 above.

(9) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(10) The test subject shall indicate to the test conductor if any time during the fit test the taste of saccharin is detected.

(11) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

4. *Irritant Fume Protocol.* (a) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(b) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(c) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver 200 milliliters per minute.

(d) If a half-mask is being fitted, advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(e) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/She shall begin at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(f) The exercises identified in section I. A. 14 above shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(g) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(h) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

C. *Quantitative Fit Test (QNFT) Protocol*

1. *General.* (a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(b) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(c) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

2. *Definitions.* (a) Quantitative fit test. The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agency is a gas or vapor.

(b) Challenge agent means the aerosol, gas or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(c) Test subject means the person wearing the respirator for quantitative fit testing.

(d) Normal standing position means standing erect and straight with arms down along the sides and looking straight ahead.

(e) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(f) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(g) "Fit Factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

3. *Apparatus.* (a) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively

isolated from the ambient air, yet uniform in concentration throughout the chamber.

(c) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(d) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(e) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(g) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(j) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(k) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(m) The limitations of instrument detection shall be taken into account when determining the fit factor.

(n) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

4. *Procedural Requirements.* (a) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(b) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(c) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(d) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half mask or 1 percent for a full facepiece respirator.

(e) A stable challenge concentration shall be obtained prior to the actual start of testing.

(f) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(g) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half masks and 1 percent for full

facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(h) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(i) Calculation of fit factors.

(1) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(2) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and of the end of the test.

(3) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(i) Average peak concentration

(ii) Maximum peak concentration

(iii) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(j) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(k) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least 10 times the hazardous exposure level is obtained.

(l) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

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Environmental Protection Agency Federal Register

**Wednesday
May 27, 1992**

Part III

Environmental Protection Agency

**OMB Response to Agency Paperwork
Reduction Act Clearance Request; Notice**

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-400054B; FRL-4069-8]

OMB Response to Agency Paperwork Reduction Act Clearance Request**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Approval of 1991 Form R and Instructions.

SUMMARY: The Office of Management and Budget (OMB) has approved the revised Form R and instructions which are to be used to comply with the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA) for the 1991 calendar (reporting) year.

DATES: The form and instructions were approved on May 19, 1992, and are effective through November 30, 1992.

FOR FURTHER INFORMATION CONTACT: The Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St., SW., Washington, DC 20460, Toll free: 800/535-0202.

SUPPLEMENTARY INFORMATION: EPA Information Collection Request (ICR) No. 1363.04; Toxic Release Inventory Reporting Form Pollution Prevention Information was approved May 19, 1992, under OMB No. 2070-0093 which expires November 30, 1992. This ICR covers modifications to the Toxic Chemical Release Inventory (TRI) reporting Form R to include additional reporting elements required by the Pollution Prevention Act of 1990 (42 U.S.C. 11071 to 11079).

The modifications require that facilities that must currently comply with the requirements of section 313 of EPCRA also provide quantities: released; used for energy recovery onsite and off-site; recycled on-site and off-site; treated on-site and off-site; and released due to remedial actions, catastrophic events, or one-time events not associated with production processes. Respondent facilities must also provide: a production ratio or activity index; information on source reduction activities and the methods used to identify the opportunity for those activities; and an indication if additional optional information is included with the Form R submission. The following table provides the previous burden on respondent facilities for complying with EPCRA section 313 and the new additional burden on those facilities for complying with the reporting modifications as required by the PPA.

Table 1.—Effect on Total Annual Burden

	Existing Form R	PPA Requirements	Combined Total
Number of Respondents.....	28,000	28,000	28,000
Responses per Respondent.....	4	4	4
Total Hours.....	3,728,908	1,214,772	4,943,680

Because of delays in finalizing and distributing the OMB-approved 1991 Form R and accompanying instructions, facilities subject to EPCRA and PPA reporting may not have sufficient time to prepare and submit their reports by July 1, 1992. EPA is aware that delay in the distribution of the reporting package is creating concern regarding potential enforcement actions, including civil penalties, for those facilities reporting after the July 1, 1992 deadline.

In recognition of legitimate concerns and the importance to the public that facilities submit complete and accurate Form R reports, EPA will not initiate

enforcement proceedings against facilities that file accurate Form R reports between July 1, 1992 and September 1, 1992. Reports for the 1991 reporting year that are filed after September 1, 1992 and/or contain inaccurate or missing information, including errors or omissions, may be subject to EPA enforcement action, including, but not limited to, civil penalties.

This determination applies only to violations of the EPCRA section 313 and PPA section 6607 reporting obligations for Form R reports due on July 1, 1992, covering calendar year 1991. Nothing in

this determination shall be construed to apply to any other EPCRA reporting obligations of facilities for Form R reports for past or future reporting years. This action does not represent an administrative suspension of the statutory deadline established by Congress. Rather, this decision recognizes the inability of the government to provide approved Form R reporting forms and the Administrator's discretion to determine the appropriate EPA enforcement response for violations of EPCRA section 313.

The form and instructions follow.

BILLING CODE 6550-50-F

Important Changes in the Section 313 Requirements for Reporting Year 1991

Reporting requirements for calendar year 1991 (reports due July 1, 1992) differ from previous years:

- (1) The following chemicals have been specifically delisted and are not covered for the 1991 reporting year:

Chemical Name	CAS Number
Terephthalic acid	100-21-0
Melamine	108-78-1
*C.I. Pigment Blue 15	147-14-8
Sodium hydroxide (solution)	1310-73-2
*C.I. Pigment Green 7	1328-53-6
Aluminum oxide (non-fibrous forms)	1344-28-1
C.I. Acid Blue 9 diammonium salt	2650-18-2
C.I. Acid Blue 9 disodium salt	3844-45-9
Sodium sulfate (solution)	7757-82-6
Titanium dioxide	13463-67-7
*C.I. Pigment Green 36	14302-13-7

*These substances were delisted from the "Copper Compounds" category.

- (2) The following chemicals have been added to the toxic chemical list and are covered for the 1991 reporting year:

Chemical Name	CAS Number
Bromotrifluoromethane (Halon 1301)	75-63-8
Trichlorofluoromethane (CFC-11)	75-69-4
Dichlorodifluoromethane (CFC-12)	75-71-8
Dichlorotetrafluoroethane (CFC-114)	76-14-2
Monochloropentafluoroethane (CFC-115)	76-15-3
Dibromotetrafluoroethane (Halon 2402)	124-73-2
Bromochlorodifluoromethane (Halon 1211)	353-59-3

- (3) Reporting in Part II, Section 8, "Source Reduction and Recycling Activities," is now mandatory under the Pollution Prevention Act of 1990. All facilities required to file Form R are now required to report any source reduction and recycling activity engaged in during the reporting year. See the instructions for Part II, Section 8 for information about the new requirements.

Toxic chemicals that are used for energy recovery purposes now have a separate reporting data element. If the reported toxic chemical is actually used for energy recovery and has a significant heat of combustion value, that activity will be reported as energy recovery. If the toxic chemical is incinerated with no recovery of energy, or if the heat of combustion value of the toxic chemical is too low to contribute significantly to energy recovery, the activity will be considered waste treatment.

(5) The de minimis exemption has been revised; beneficiation activities are no longer excluded from this exemption. Under any circumstances, toxic chemicals received in mixtures or trade name products under the de minimis value of one percent, or 0.1 percent if carcinogenic, are exempted from threshold determinations and release calculations.

Once a listed toxic chemical exceeds its de minimis level, however, all releases occurring after that point are subject to reporting.

A TRI facility identification number has been assigned to each facility that previously submitted Form R reports. This identification number is designed to simplify locating facility reports. All facilities which submitted a Form R previously will receive a section 313 compliance package that includes a self-adhesive mailing label with the TRI facility identification number. If this package does not contain a mailing label or you have misplaced it, contact the Emergency Planning and Community Right-to-Know Information Hotline for help in determining your TRI facility identification number.

(7) The toll-free telephone number for the Emergency Planning and Community Right-to-Know Information Hotline, 1-800-535-0202, is now accessible throughout the U.S., including Washington, D.C., and Alaska. The toll telephone number has been changed to 703-920-9877.

Important Changes to Form R for 1991

The Form R for reporting year 1991 contains many changes. The changes were made to consolidate related data elements and clarify reporting requirements. The following changes have been made for the 1991 reporting year (reports due on or before July 1, 1992):

- The format of Form R has been changed to make the data readable by the Optical Character Recognition (OCR) Scanner.
- Part II, Section 8 of Form R, "Source Reduction and Recycling Activities," contains data elements mandated by the Pollution Prevention Act of 1990 (PPA).
- Form R now consists of two parts:
 - Part I. Facility Identification Information (pages 1-2); and
 - Part II. Chemical-Specific Information (pages 3-9).

Part II of previous Form Rs, "Off-Site Locations to which Toxic Chemicals are Transferred in Wastes," has been incorporated into Part II, Section 6 of this year's form, "Transfers of the Toxic Chemical in Wastes to Off-Site Locations." This change allows location information and transfer amounts to be reported together. Part III of previous Form Rs, "Chemical-Specific Information," is now Part II. Part IV of previous Form Rs, "Supplemental Information," has been eliminated.

- A space was added to page 1 for indicating if the form being submitted is a revision.
- Space has been made available to enter the toxic chemical name and TRI facility identification number on every page of Form R (minimum of 9 pages per Form R). These spaces are designed to help ensure correct reporting by facilities and correct data entry by EPA. They are not required data elements.

● On page 1, Part I, Section 4.1, space has been added for including the reporting facility's mailing address if it differs from the street address.

● The data elements for entering the names of receiving streams and water bodies have been incorporated into Part II, Section 5, "Releases of the Toxic Chemical to the Environment On-Site." As a result, the amount released will appear next to the name of the receiving stream or water body.

● In Part II, Section 5, "Releases of the Toxic Chemical to the Environment On-Site," and Part II, Section 6, "Transfers of the Toxic Chemical in Wastes to Off-Site Locations," the range reporting columns have been removed. Space has been added to enter either an estimate or a code representing one of the three reporting ranges.

● Information on off-site transfers for recycling and energy recovery is included in Part II, Section 6, "Transfers of the Toxic Chemical in Wastes to Off-Site Locations." Section 6 has been modified to allow for more than one operation code (i.e., waste treatment, disposal, recycling, or energy recovery) and more than one amount to be entered per location.

● Section 6.1, "Discharges to Publicly Owned Treatment Works" now contains two parts: 6.1.A, "Total Quantity Transferred to POTWs and Basis of Estimate," and 6.1.B, "POTW Name and Location Information." If you transfer a toxic chemical in wastes to more than one POTW, enter the total transfers to all POTWs in section 6.1.A.1, and in section 6.1.A.2 enter the basis of estimate for the total amount transferred. In section 6.1.B., list the name and location of all POTWs that received the toxic chemical in wastes.

- If additional space is needed for completing Sections 5.3, "Discharges to Receiving Stream or Water Body" and Section 6, "Transfers of the Toxic Chemical in Wastes to Off-Site Locations," pages 5 and 6 should be photocopied, and the extra pages submitted.
- Part II, Section 7A, "On-Site Waste Treatment Methods and Efficiency," has been expanded and now is the only data element on page 7 of Form R. If additional space is needed for Section 7A (On-Site Waste Treatment Methods and Efficiency), this page may be photocopied, and the extra pages submitted. Page 8 contains two new required data elements: Section 7B, "On-Site Energy Recovery Processes," and Section 7C, "On-Site Recycling Processes."
- Page 9 consists of the required PPA data elements. Section 8, "Source Reduction and Recycling Activities," is now a required section of Form R. See Part II, Section 8 for the data elements.

Toxic Release Inventory Reporting Form R and Instructions

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Reporting Form R Submission Checklist

1. Complete a separate Form R for each toxic chemical or chemical category you are reporting.
 - ☐ 1.a Enter CAS number and toxic chemical name in Part II, Sections 1.1 and 1.2 (or the toxic chemical category name and category code in the CAS number section);
 - ☐ 1.b Enter the toxic chemical, chemical category, or generic chemical name and the TRI facility identification number in the appropriate space on every page of Form R (optional); and
 - ☐ 1.c Enter information that applies only to the toxic chemical or chemical category being reported.
2. Complete the report with information from the previous calendar year.
 - ☐ 2.a Complete all sections, if applicable, or enter NA;
 - ☐ 2.b Include both Parts I and II (minimum of 9 pages); and
 - ☐ 2.c Sign the report certification (Part I, Section 3).
3. Submit by July 1, 1992, to:
 - ☐ 3.a EPA Headquarters (original signature on Part I, Section 3 is required for each form submitted to EPA) at the following address:

EPCRA Reporting Center
P.O. Box 23779
Washington, D.C. 20026-3779
Attn: Toxic Chemical Release Inventory

and
 - ☐ 3.b State-designated section 313 contact (see Appendix F) or the designated official of an Indian tribe.
4. Keep a copy of each Form R and all supporting documentation for your files. (All such information must be kept for three years.)
 - Additional requirements if claiming a toxic chemical identity a trade secret (see Section A.2: Trade Secret Claims):
 1. Submit two complete Form R reports (minimum of 9 pages);
 - ☐ 1.a One that identifies the toxic chemical ("unsanitized");
 - ☐ 1.b One that provides a generic chemical identity ("sanitized"); and
 - ☐ 1.c Certify both with an original signature and date.
2. Provide two complete trade secret substantiation forms:
 - ☐ 2.a One that identifies the toxic chemical ("unsanitized");
 - ☐ 2.b One that provides a generic chemical identity ("sanitized"); and
 - ☐ 2.c Certify both with an original signature and date.
3. Check that the sanitized and unsanitized versions are correctly identified in Part I, Section 2.2.
4. Originals of both Form Rs and both trade secret substantiation forms should be submitted to EPA Headquarters (see address above).
5. Verify if submission requirements in your state differ from EPA's by contacting your state-designated section 313 contact (see Appendix F), and submit the correct version(s).

A. General Information

Submission of EPA Form R, the Toxic Chemical Release Inventory (TRI) Reporting Form, is required by section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA, or Title III of the Superfund Amendments and Reauthorization Act of 1986), Public Law 99-499. The information contained in Form R constitutes a "report," and the submission of a report to the appropriate authorities constitutes "reporting."

Reporting is required to provide the public with information on the releases of listed toxic chemicals in their communities and to provide EPA with release information to assist the Agency in determining the need for future regulations. Facilities must report the quantities of both routine and accidental releases of listed toxic chemicals, as well as the maximum amount of the listed toxic chemical on-site during the calendar year and the amount contained in wastes transferred off-site.

The Pollution Prevention Act, passed into law in October, 1990 (Pub. L. 101-508), added reporting requirements to Form R. These new requirements will affect all facilities required to submit Form R under section 313 of EPCRA. The new data, which is described in the preceding section, "Important Changes to Form R for 1991," will be required beginning with reports for calendar year 1991 (first reports due to EPA and States by July 1, 1992).

A completed Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at each covered facility as described in the reporting rule in 40 CFR Part 372 (originally published February 16, 1988, in the Federal Register). These instructions supplement and elaborate on the requirements in the reporting rule. Together with the reporting rule, they constitute the reporting requirements. All references in these instructions are to sections in the reporting rule unless otherwise indicated.

A.1 How to Assemble a Complete Report

The Toxic Chemical Release Reporting Form, EPA Form R, consists of two parts:

- Part I, Facility Identification Information (pages 1 and 2); and
- Part II Chemical-Specific Information (pages 3-9).

Most of the information required in Part I of Form R can be completed, photocopied, and attached to each chemical-specific report. However, Part I of each Form R submitted must have an original signature on the certification statement and the trade secret designation must be entered as appropriate. Part II must be completed separately for each toxic chemical or chemical category. Because a complete Form R consists of at least 9 unique pages, any submissions containing less than 9 unique pages is not a valid submission.

A complete report for any listed toxic chemical that is not claimed as a trade secret consists of the following completed parts:

- Part I with an original signature on the certification statement (Section 2); and
- Part II (Section 8 is now mandatory).

Staple all 9 pages of each report together. If you check yes on Part II, Section 8.12, you may attach additional information on pollution prevention activities at your facility.

A.2 Trade Secret Claims

For any toxic chemical whose identity is claimed as a trade secret, you must submit to EPA two versions of the substantiation form as prescribed in 40 CFR Part 350, published July 29, 1988, in the Federal Register (53 FR 28772) as well as two versions of Form R. One set of forms, the "unsanitized" version, should provide the actual identity of the toxic chemical. The other set of forms, the "sanitized" version, should provide only a generic identity of the toxic chemical. If EPA deems the trade secret substantiation form valid, only the sanitized set of forms will be made available to the public.

Use the order form in this document to obtain copies of the rule and substantiation form. Further explanation of the trade secret provisions is provided in Part I, Sections 2.1 and 2.2, and Part II, Section 1.3, of the instructions.

In summary, a complete report to EPA for a toxic chemical claimed as a trade secret must include all of the following:

- A completed "unsanitized" version of a Form R report including the toxic chemical identity (staple the pages together);

- A "sanitized" version of a completed Form R report in which the toxic chemical identity items (Part II, Sections 1.1 and 1.2) have been left blank but in which a generic chemical name has been supplied (Part II, Section 1.3) (staple the pages together);
- A completed "unsanitized" version of a trade secret substantiation form (staple the pages together); and
- A "sanitized" version of a completed trade secret substantiation form (staple the pages together).

Securely fasten all four reports together.

Some states also require submission of both sanitized and unsanitized reports for toxic chemicals whose identity is claimed as a trade secret. Others require only a sanitized version. Facilities may jeopardize the trade secret status of a toxic chemical by submitting an unsanitized version of Form R to a state agency or Indian tribe that does not require unsanitized forms. You may identify an individual State's submission requirements by contacting the appropriate state-designated Section 313 contact (see Appendix F).

A.3 Recordkeeping

Sound recordkeeping practices are essential for accurate and efficient TRI reporting. It is in the facility's interest, as well as EPA's, to maintain records properly.

Facilities must keep a copy of each Form R report filed for at least three years from the date of submission. These reports will be of use in subsequent years when completing future Form R reports.

Facilities must also maintain those documents, calculations, worksheets, and other forms upon which they relied to gather information for prior Form R reports. In the event of a problem with data elements on a facility's Form R, EPA may request documentation from the facility that supports the information reported. In the future, EPA may conduct data quality reviews of past Form R submissions. An essential component of this process would be to review a facility's records for accuracy and reliability.

A partial list of records, organized by year, that a facility should maintain include:

- Previous years' Form Rs;
- Section 313 Reporting Threshold Worksheets;
- Engineering calculations and other notes;
- Purchase records from suppliers;
- Inventory data;
- EPA (NPDES) permits;
- EPCRA Section 312, Tier II Reports;
- Monitoring records;
- Flowmeter data;
- RCRA Hazardous Waste Generator's Report;
- Pretreatment reports filed by the facility with the local government;
- Invoices from waste management companies;
- Manufacturer's estimates of treatment efficiencies;
- RCRA Manifests; and
- Process diagrams that indicate emissions and releases.

A.4 When the Report Must be Submitted

The report for any calendar year must be submitted on or before July 1 of the following year (e.g., the report for calendar year 1991, January-December, must be submitted on or before July 1, 1992).

Voluntary Revision of a Previous Submission

Voluntary revisions must be submitted on a Form R identical to the version originally submitted to EPA for that reporting year. The Emergency Planning and Community Right-to-Know Information Hotline can help you identify the version of Form R used for each reporting year.

For the 1991 reporting year only, enter "X" in the space marked "Enter 'X' here if this is a revision" on page 1 of the form if you are making a voluntary revision to a previous Form R submission. If you have obtained the Document Control Number (DCN) of the original submission from EPA, enter that number in red ink in any available space on page 1 of the form. Enter the revised data to the Form R and circle all changes from the original submission in red ink. Sign the certification statement and provide a current date.

For reporting years prior to 1991, there are two options for making voluntary revisions. The first is to submit a photocopy of the original Form R submission (from your file), with corrections made in red ink. Write the words "VOLUNTARY REVISION", and the Document Control Number (DCN), if available, on page 1 of the Form R, and re-sign and re-date the certification statement on page 1.

The second is to obtain a blank Form R for the reporting year affected by the correction(s). Complete all data elements on this Form, but circle with red ink those data elements that you have changed. A cover letter should be included to clarify exactly which voluntary revisions you have made.

Send the entire completed or revised Form R report to EPA and the appropriate state agency (or the designated official of an Indian tribe). Submissions for the next calendar year are not considered revisions of a previous year's data.

A.5 Where to Send the Form R

Form R submissions must be sent to both EPA and the State (or the designated official of an Indian tribe). If a Form R is not received by both EPA and the State (or the designated official of an Indian tribe), the submitter is considered out of compliance and subject to enforcement action.

Send reports to EPA by mail to:

EPCRA Reporting Center
P.O. Box 23779
Washington, D.C. 20026-3779
Attn: Toxic Chemical Release Inventory

To submit a Form R via hand delivery or certified mail, please call the Emergency Planning and Community Right-to-Know Information Hotline to obtain the street address of the EPCRA Reporting Center.

In addition, you must also send a copy of the report to the State in which the facility is located. ("State" also includes: the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the U.S. has jurisdiction.) Refer to Appendix F for the appropriate State submission addresses.

Facilities located on Indian land should send a copy to the Chief Executive Officer of the applicable Indian tribe. Some tribes have entered into a cooperative agreement with States; in this case, Form R submissions should be sent to the entity designated in the cooperative agreement.

Submission of section 313 reports in magnetic media and computer-generated facsimile formats has been approved by EPA. EPA has developed a package called the "Toxic Chemical Release Inventory Reporting System." The easy-to-use diskette comes with complete instructions for its use. It also provides prompts and messages to help you report according to EPA instructions. For copies of the diskette you may call the EPCRA Hotline.

Many firms are offering computer software to assist facilities in producing magnetic media submissions or computer-generated facsimiles of Form R reports. To ensure accuracy, EPA will only accept magnetic media submissions and computer-generated facsimiles that meet basic specifications established by EPA. To determine if software offered by a firm meets these specifications, EPA reviews and approves all software upon request. Call the Emergency Planning and Community Right-to-Know Information Hotline to identify the software that has been approved by EPA for the current reporting year.

It should be noted, however, that some States may accept only hard copies of Form R. If this is the case, a magnetic media or computer-generated facsimile may be unacceptable.

A.6 How to Obtain Forms and Other Information

A copy of Form R is included in this booklet. Remove this form and produce as many photocopies as needed. Related guidance documents may be obtained from:

Section 313 Document Distribution Center
P.O. Box 12505
Cincinnati, OH 45212

See Appendix I for the document request form and more information on available documents.

Questions about completing Form R may be directed to the Emergency Planning and Community Right-to-Know Information Hotline at the following address or telephone numbers.

Emergency Planning and Community
Right-to-Know Information Hotline
U.S. Environmental Protection Agency
401 M Street, S.W. (OS-120)
Washington, DC 20460

(800) 535-0202 or (703) 920-9877
from 8:30 am - 7:30 pm Eastern Time
(Mon-Fri, except Federal Holidays.)

EPA Regional Staff may also be of assistance. Refer to
Appendix G for a list of EPA Regional Offices.

A.7 Who Must Submit this Form

Section 313 of EPCRA requires that reports be filed by
owners and operators of facilities that meet all three of
the following criteria:

- The facility has 10 or more full-time employees;
and
- The facility is included in Standard Industrial
Classification (SIC) Codes 20 through 39; and
- The facility manufactures (defined to include
importing), processes, or otherwise uses any
listed toxic chemical in quantities equal to or
greater than the established threshold in the
course of a calendar year.

B. How to Determine if Your Facility Must Submit EPA Form R

(See Figure 1 for more information.)

B.1 Full-Time Employee Determination

A "full-time employee," for purposes of section 313 reporting, is defined as 2,000 work hours per year. This definition is dependent only upon the number of hours worked by all employees for the facility during the calendar year and not the number of persons working. To determine the number of full-time employees working for your facility, add up the hours worked by all employees during the calendar year, including contract employees and sales and support staff working for the facility, and divide the total by 2,000 hours. In other words, if the total number of hours worked by all employees is 20,000 hours or more, your facility meets the ten employee threshold.

Examples include:

- A facility consists of 11 employees who each worked 1500 hours for the facility in a calendar year. Consequently, the total number of hours worked by all employees for the facility during the calendar year is 16,500 hours. The number of full-time employees for this facility is equal to 16,500 hours divided by 2,000 hours per full-time employee, or 8.3 full-time employees. Therefore, even though 11 persons worked for this facility during the calendar year, the number of hours worked is equivalent to 8.3 full-time employees. This facility does not meet the employee criteria and is not subject to section 313 reporting.
- Another facility consists of 6 workers and 3 sales staff. The 6 workers each worked 2,000 hours for the facility in the calendar year. The sales staff also each worked 2,000 hours in the calendar year although they may have been on the road half of the year. In addition, 5 contract employees were hired for a period during which each worked 400 hours for the facility. The total number of hours is equal to the time worked by the workers at the facility (12,000 hours), plus the time worked by the sales staff for the facility (6,000 hours), plus the time worked by the contract employees at the facility (2,000 hours), or 20,000 hours. Dividing the 20,000 hours by 2,000 yields 10 full-time employees. This facility has

met the full-time employee criteria and may be subject to reporting if the other criteria are met.

B.2 Primary SIC Code Determination

Standard Industrial Classification (SIC) codes 20-39 are covered by the rule and are listed in Table I. The first two digits of a 4-digit SIC code define a major business sector, while the last two digits denote a facility's specialty within the major sector. If you are not familiar with the SIC codes that apply to your facility, contact your trade association, Chamber of Commerce, or legal counsel. For a detailed description of 4-digit SIC codes, refer to the "Standard Industrial Classification Manual 1987." Clothbound editions are available in most major libraries or may be ordered through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161, (703) 487-4650. The access number for the clothbound manual is PB87-100012, and the price is \$30.00.

Section 313 requires that reports be filed by "facilities," which are defined as "all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person." The SIC code system, however, classifies businesses not as "facilities," but as "establishments," which are defined as "distinct and separate economic activities [that] are performed at a single physical location."

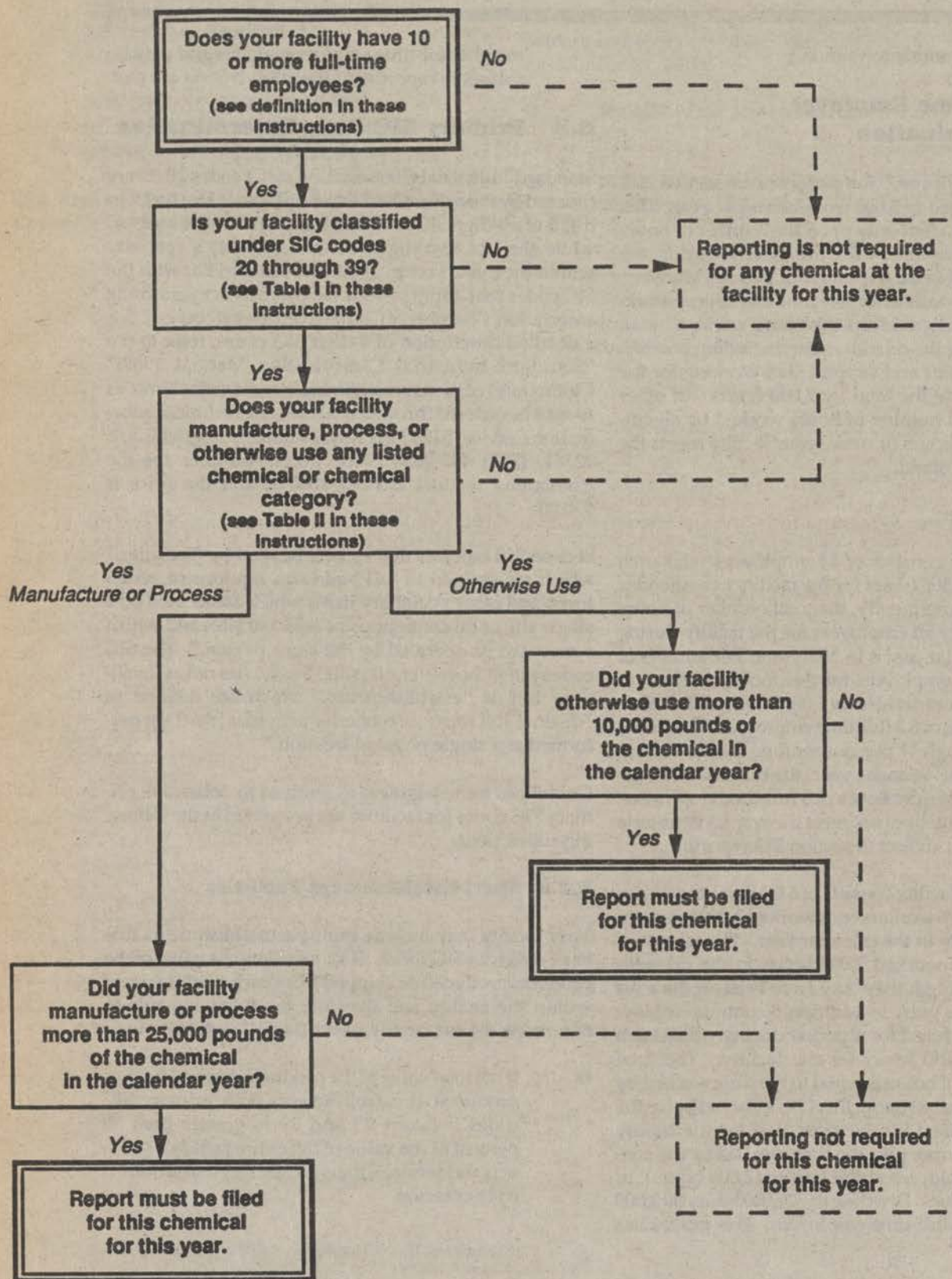
Guidelines for using these definitions to determine primary SIC codes for facilities are presented in the following subsections.

B.2.a Multi-Establishment Facilities

Your facility may include multiple establishments that have different SIC codes. If so, calculate the value of the products produced or shipped from each establishment within the facility and then use the following rule to determine if your facility meets the SIC code criterion:

- If the total value of the products shipped from or produced at establishments with primary SIC codes between 20 and 39 is greater than 50 percent of the value of the entire facility's products and services, the entire facility meets the SIC code criterion.

Figure 1

Determining Applicability of Section 313 Requirements

- If any one establishment with a primary SIC code between 20 and 39 produces or ships products whose value exceeds the value of products and services produced or shipped by any other establishment within the facility, the facility also meets the SIC code criterion.

The value of production attributable to a particular establishment may be isolated by subtracting the value of products obtained from other establishments within the same facility that are incorporated into its final products. This procedure eliminates the potential for "double counting" production in situations where establishments are engaged in sequential production activities at a single facility.

Examples include:

- One establishment in a gold mining facility is engaged primarily in the exploration of gold deposits, developing mines, and mining gold. This establishment deploys several means to mine the gold, including crushing, grinding, gravity concentration, froth flotation, amalgamation, cyanidation, and the production of bullion at the mine and mill sites (these processes are classified under SIC code 1041). All of the ore discovered through this establishment is delivered to a second establishment which is primarily engaged in rolling, drawing, and extruding the gold for sale and distribution. The smelting establishment in the facility is classified under SIC code 3339. The facility could calculate the value of production for each establishment separately (both SIC code 1041 and 3339 having separate values). Alternatively, the facility could determine the value of the smelter operation by subtracting the value of the ore produced from the value of entire facility's production (Gross value of facility - SIC code 1041 value = Value for SIC code 3339).
- A food processing establishment in a facility processes crops grown at the facility in a separate establishment. The facility could base the value of the products of each establishment on the total production value of each establishment. Alternatively, the facility could first determine the value of the crops grown at the agricultural establishment, and then calculate the contribution of the food processing establishment by subtracting the crop value from the total value of

the product shipped from the processing establishment. (Value of product shipped from processing - crop value = value of processing establishment)

A covered multi-establishment facility must make toxic chemical threshold determinations and, if required, must report all relevant information about releases, source reduction, recycling, and waste treatment associated with a listed toxic chemical for the entire facility, even from establishments that are not in SIC codes 20-39. EPA realizes, however, that certain establishments in a multi-establishment facility can be, for all practical purposes, separate business units. Therefore, individual establishments may report releases separately, provided that the total releases for the whole facility is represented by the sum of releases reported by the separate establishments.

B.2.b Auxiliary Facilities

An auxiliary facility is one that supports another facility's activities (e.g., research and development laboratories, warehouses, storage facilities, and waste-treatment facilities). An auxiliary facility can assume the SIC code of another covered facility if its primary function is to service that other covered facility's operations. Thus, a separate warehouse facility (i.e., one not located within the physical boundaries of a covered facility) may become a covered facility because it services a facility in SIC codes 20-39. Auxiliary facilities that are in SIC codes 20-39 are required to report if they meet the employee criterion and reporting thresholds for manufacture, process, or otherwise use. Auxiliary establishments that are part of a multi-establishment facility must be factored into threshold determinations for the facility as a whole.

B.2.c Facility-Related Exemptions

Laboratories: Listed toxic chemicals that are manufactured, processed, or otherwise used in laboratory activities at a covered facility under the direct supervision of a technically qualified individual do not have to be considered for threshold and release calculations. However, pilot plant scale and specialty chemical production do not qualify for this laboratory activities exemption.

Property Owners: You are not required to report if you merely own real estate on which a facility covered by this rule is located; that is, you have no other business interest in the operation of that facility (e.g., your company owns an industrial park). The operator of that facility, however, is subject to reporting requirements.

B.3 Activity Determination

B.3.a Definitions of "Manufacture," "Process," and "Otherwise Use"

Manufacture: The term "manufacture" means to produce, prepare, compound, or import a listed toxic chemical. (See Part II, Section 3.1 of these instructions for further clarification.)

Import is defined as causing the toxic chemical to be imported into the customs territory of the United States. If you order a listed toxic chemical (or a mixture containing the chemical) from a foreign supplier, then you have imported the chemical when that shipment arrives at your facility directly from a source outside of the United States. By ordering the chemical, you have "caused it to be imported," even though you may have used an import brokerage firm as an agent to obtain the toxic chemical.

The term manufacture also includes coincidental production of a toxic chemical (e.g., as a byproduct or impurity) as a result of the manufacture, processing, otherwise use, or treatment of other chemical substances. In the case of coincidental production of an impurity (i.e., a toxic chemical that remains in the product that is distributed in commerce), the de minimis limitation, discussed in Section B.4.b of these instructions, applies. The de minimis limitation does not apply to byproducts (e.g., a toxic chemical that is separated from a process stream and further processed or disposed). Certain listed toxic chemicals may be manufactured as a result of wastewater treatment or other treatment processes. For example, neutralization of acid wastewater can result in the coincidental manufacture of ammonium nitrate (solution).

Example 1: Coincidental Manufacture

Your company, a nitric acid manufacturer, uses ammonia in a waste treatment system to neutralize an acidic wastewater stream containing nitric acid. The reaction of the ammonia and nitric acid produces an ammonium nitrate solution. Ammonium nitrate solution is a listed toxic chemical, as are nitric acid and ammonia. Your facility thus otherwise uses ammonia as a reactant and manufactures ammonium nitrate solution as a byproduct. If the ammonium nitrate solution is produced in a quantity that exceeds the threshold (e.g., 25,000 pounds for the reporting year), the facility must report for the ammonium nitrate solution. If more than 10,000 pounds of ammonia is added to the wastewater treatment system, then the facility must report for ammonia.

Process: The term "process" means the preparation of a listed toxic chemical, after its manufacture, for distribution in commerce. Processing is usually the intentional incorporation of a toxic chemical into a product (see Part II, Section 3.2 of these instructions for further clarification). Processing includes preparation of the toxic chemical in the same physical state or chemical form as that received by your facility, or preparation that produces a change in physical state or chemical form. The term also applies to the processing of a mixture or other trade name product (see Section B.4.b of these instructions) that contains a listed toxic chemical as one component.

Otherwise Use: The term "otherwise use" encompasses any activity involving a listed toxic chemical at a facility that does not fall under the definitions of "manufacture" or "process." A chemical that is otherwise used by a

Example 2: Typical Process and Manufacture Activities

- Your company receives toluene, a listed toxic chemical, from another facility, and reacts the toluene with air to form benzoic acid. Your company processes toluene and manufactures benzoic acid. Benzoic acid, however, is not a listed toxic chemical and thus does not trigger reporting requirements.
- Your facility combines toluene purchased from a supplier with various materials to form paint. Your facility processes toluene.
- Your company receives a nickel compound (nickel compound is a listed toxic chemical category) as a bulk solid and performs various size-reduction operations (e.g., grinding) before packaging the compound in 50 pound bags. Your company processes the nickel compound.
- Your company receives a prepared mixture of resin and chopped fiber to be used in the injection molding of plastic products. The resin contains a listed toxic chemical that becomes incorporated into the plastic. Your facility processes the toxic chemical.

Example 3: Otherwise Use

When your facility cleans equipment with toluene, you are otherwise using toluene. Your facility also separates two components of a mixture by dissolving one component in toluene, and subsequently recovers the toluene from the process for reuse or disposal. Your facility otherwise uses toluene.

facility is not intentionally incorporated into a product distributed in commerce (see Part II, Section 3.3 of these Instructions for further clarification).

B.3.b Activity Exemptions

Use Exemptions. Certain uses of listed toxic chemicals are specifically exempted:

- use as a structural component of the facility;
- use in routine janitorial or facility grounds maintenance;
- personal uses by employees or other persons;
- use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility; or
- use of toxic chemicals contained in intake water (used for processing or non-contact cooling) or in intake air (used either as compressed air or for combustion).

Article Exemptions. Quantities of a listed toxic chemical contained in an article do not have to be factored into threshold or release determinations when that article is

processed or otherwise used at your facility. An article is defined as a manufactured item that is formed to a specific shape or design during manufacture, that has end-use functions dependent in whole or in part upon its shape or design during end-use, and that does not release a toxic chemical under normal conditions of the processing or otherwise use of that item at the facility.

If the processing or otherwise use of similar articles results in a total release of less than 0.5 pounds of a toxic chemical in a calendar year to any environmental media, EPA will allow this release quantity to be rounded to zero, and the manufactured items remain exempt as articles. EPA requires facilities to round off and report all estimates to the nearest whole number. The 0.5-pound limit does not apply to each individual article, but applies to the sum of all releases from processing or otherwise use of like articles.

The article exemption applies to the normal processing or otherwise use of an article. It does not apply to the manufacture of an article. Toxic chemicals processed into articles produced at a facility must be factored into threshold and release determinations.

A closed item containing toxic chemicals (e.g., a transformer containing PCBs) that does not release the toxic chemicals during normal use is considered an article if a facility uses the item as intended and the toxic chemicals are not released. If a facility services the closed item (e.g., a transformer) by replacing the toxic chemicals, the toxic chemicals added during the reporting year must be counted in threshold and release calculations.

Example 4: Article Exemption

- Lead that is incorporated into a lead acid battery is processed to manufacture the battery, and therefore must be counted toward threshold and release determinations. However, the use of the lead acid battery elsewhere in the facility does not have to be counted. Disposal of the battery after its use does not constitute a "release"; thus, the battery remains an article.
- Metal rods that are extruded into wire are not articles because their form changes during processing.
- If an item used in the facility is fragmented, the item is still an article if those fragments being discarded remain identifiable as the article (e.g., recognizable pieces of a cylinder, pieces of wire). For instance, an 8-foot piece of wire is broken into two 4-foot pieces of wire, without releasing any toxic chemicals. Each 4-foot piece is identifiable as a piece of wire; therefore, the article status for these pieces of wire remains intact.
- Toxic chemicals received in the form of pellets are not articles because the pellet form is simply a convenient form for further processing of the material.

When the processing or otherwise use of an item generates fumes, dust, filings, or grindings, the article exemption is not applicable. The toxic chemical(s) in the item must be counted toward the appropriate threshold determination, and the fumes, dust, filings, and grindings must be reported as releases or wastes. Scrap pieces that are recognizable as an article do not constitute a release.

B.3.c Activity Qualifiers

Table II contains the list of individual toxic chemicals and categories of chemicals subject to 1991 calendar year reporting. Some of the toxic chemicals listed in Table II have parenthetical qualifiers listed next to them. A toxic chemical that is listed without a qualifier is subject to reporting in all forms in which it is manufactured, processed, and otherwise used.

Fume or dust. Three of the metals on the list (aluminum, vanadium, and zinc) contain the qualifier "fume or dust." Fume or dust refers to dry forms of these metals but does not refer to "wet" forms such as solutions or slurries. As explained in Section B.3a of these instructions, the term manufacture includes the generation of a toxic chemical as a byproduct or impurity. In such cases, a facility should determine if, for example, it generated more than 25,000 pounds of aluminum fume or dust in 1991 as a result of its activities. If so, the facility must report that it manufactures "aluminum (fume or dust)." Similarly, there may be certain technologies in which one of these metals is processed in the form of a fume or dust to make other toxic chemicals or other products for distribution in commerce. In reporting releases, the facility would only report releases of the fume or dust.

EPA considers dusts to consist of solid particles generated by any mechanical processing of materials including crushing, grinding, rapid impact, handling, detonation, and decrepitation of organic and inorganic materials such as rock, ore, and metal. Dusts do not tend to flocculate, except under electrostatic forces. A fume is an airborne dispersion consisting of small solid particles created by condensation from a gaseous state, in distinction to a gas or vapor. Fumes arise from the heating of solids such as lead. The condensation is often accompanied by a chemical reaction, such as oxidation. Fumes flocculate and sometimes coalesce.

Manufacturing qualifiers. Two of the entries to the section 313 toxic chemical list contain a qualifier relating to manufacture. For isopropyl alcohol, the qualifier is "manufacturing -- strong acid process." For saccharin,

the qualifier simply is "manufacturing." For isopropyl alcohol, the qualifier means that only facilities manufacturing isopropyl alcohol by the strong acid process are required to report. In the case of saccharin, only manufacturers of the toxic chemical are subject to the reporting requirements. A facility that processes or otherwise uses either toxic chemical would not be required to report for those toxic chemicals. In both cases, supplier notification does not apply because only manufacturers, not users, of the toxic chemical must report.

Solutions. Two substances on the list, ammonium nitrate and ammonium sulfate, are qualified by the term "solution," which refers to the physical state of these toxic chemicals. Solid, molten, and pelletized forms of these toxic chemicals are exempt from threshold and release determinations. Only facilities that manufacture, process, or otherwise use these toxic chemicals in the form of a solution are required to report. Supplier notification applies only if the toxic chemical is distributed as a solution.

Phosphorus (yellow or white). The listing for phosphorus is qualified by the term "yellow or white." This means that only manufacturing, processing, or otherwise use of phosphorus in the yellow or white chemical form triggers reporting. Conversely, manufacturing, processing, or otherwise use of "black" or "red" phosphorus does not trigger reporting. Supplier notification also applies only to distribution of yellow or white phosphorus.

Asbestos (friable). The listing for asbestos is qualified by the term "friable," referring to the physical characteristic of being able to be crumbled, pulverized, or reducible to a powder with hand pressure. Only manufacturing, processing, or otherwise use of asbestos in the friable form triggers reporting. Supplier notification applies only to distribution of mixtures or trade name products containing friable asbestos.

Aluminum Oxide (fibrous forms). The listing for aluminum oxide is qualified by the term "fibrous forms." Fibrous refers to a man-made form of aluminum oxide that is processed to produce strands or filaments which can be cut to various lengths depending on the application. Only manufacturing, processing, or otherwise use of aluminum oxide in the fibrous form triggers reporting. Supplier notification applies only to distribution of mixtures or trade name products containing fibrous forms of aluminum oxide.

B.4 Threshold Determination

Section 313 reporting is required if threshold quantities are exceeded. Separate thresholds apply to the amount of the toxic chemical that is manufactured, processed, or otherwise used.

You must submit a report for any listed toxic chemical that is manufactured or processed at your facility in excess of the following threshold:

- 25,000 pounds during the course of a calendar year.

You must submit a report if the quantity of a listed toxic chemical that is otherwise used at your facility exceeds:

- 10,000 pounds during the course of a calendar year.

B.4.a How to Determine If Your Facility Has Exceeded Thresholds

To determine whether your facility has exceeded a section 313 reporting threshold, compare quantities of listed toxic chemicals that you manufacture, process, or otherwise use to the respective thresholds for those activities. A worksheet is provided in Figure 2 to assist facilities in determining whether they exceed any of the reporting thresholds. This worksheet also provides a format for maintaining reporting facility records. Use of this worksheet is not required and the completed worksheet(s) should not accompany Form R reports submitted to EPA and the State.

Complete a separate worksheet for each section 313 toxic chemical or chemical category. Base your threshold determination for listed toxic chemicals with qualifiers only on the quantity of the toxic chemical satisfying the qualifier.

Use of the worksheet is divided into three steps:

Step 1 allows you to record the gross amount of the toxic chemical or chemical category involved in activities throughout the facility. Pure forms as well as the amounts of the toxic chemical or chemical category present in mixtures or trade name products must be considered. The types of activity (i.e., manufacturing, processing, or otherwise using) for which the toxic chemical is used must be identified because separate thresholds apply to each of these activities. A record of the information source(s) used should be kept. Possible information

sources include purchase records, inventory data, and calculations by a process engineer. The data collected in Step 1 will be totalled for each activity to identify the overall amount of the toxic chemical or chemical category manufactured (including imported), processed, or otherwise used.

Step 2 allows you to identify uses of the toxic chemical or chemical category that were included in Step 1 but are exempt under section 313. Do not include in Step 2 exempt forms of the toxic chemical not included in the calculations in Step 1. For example, if freon contained in the building's air conditioners was not reported in Step 1, you would not include the amount as exempt in Step 2. Step 2 is intended for use when one form or use of the toxic chemical is exempt while other forms require reporting. Note the type of exemption for future reference. Also identify, if applicable, the fraction or percentage of the toxic chemical present that is exempt. Add the amounts in each activity to obtain a subtotal for exempted amounts of the toxic chemical or chemical categories at the facility.

Step 3 involves subtracting the result of Step 2 from the results of Step 1 for each activity. Compare this net sum to the applicable activity threshold. If the threshold is met or exceeded for any of the three activities, a facility must submit a Form R for that toxic chemical or chemical category. This worksheet should be retained in either case to document your determination for reporting or not reporting, but should not be submitted with the report. Do not sum quantities of the toxic chemical that are manufactured, processed, and otherwise used at your facility, because each of these activities requires a separate threshold determination. For example, if in a calendar year you processed 20,000 pounds of a chemical and you otherwise used 6,000 pounds of that same toxic chemical, your facility has not met or exceeded any applicable threshold and thus is not required to report for that chemical.

You must submit a report if you exceed any threshold for any listed toxic chemical or chemical category. For example, if your facility processes 22,000 pounds of a listed toxic chemical and also otherwise uses 16,000 pounds of that same toxic chemical, it has exceeded the otherwise used threshold (10,000 pounds) and your facility must report even though it did not exceed the process threshold. However, in preparing your reports, you must consider all non-exempted activities and all releases of the toxic chemical from your facility, not just releases from the otherwise use activity.

Figure 2
OPTIONAL SECTION 313 REPORTING THRESHOLD WORKSHEET

Facility Name: _____ Date Worksheet Prepared: _____
 Toxic Chemical or Chemical Category: _____ Prepared By: _____
 Reporting Year: _____

Step 1. Identify amounts of the toxic chemical manufactured, processed, or otherwise used.

Mixture Name or Other Identifier	Information Source	Percent by Weight	Total Weight (in lbs)	Amount of the Listed Toxic Chemical by Activity (in lbs.):		
				Manufactured	Processed	Otherwise Used
1.						
2.						
3.						
4.						
5.						
6.						
7.						
Subtotal:				(A) _____ lbs.	(B) _____ lbs.	(C) _____ lbs.

Step 2. Identify exempt forms of the toxic chemical that have been included in Step 1.

Mixture Name as Listed Above	Applicable Exemption	Note Fraction or Percent Exempt (if Applicable)	Exempt Amount of the Toxic Chemical from Above (in lbs.):		
			Manufactured	Processed	Otherwise Used
1.					
2.					
3.					
4.					
5.					
6.					
7.					
Subtotal:			(A) _____ lbs.	(B) _____ lbs.	(C) _____ lbs.

Step 3. Calculate the amount subject to threshold:

(A - A₁) _____ lbs. (B - B₁) _____ lbs. (C - C₁) _____ lbs.
 Compare to thresholds for section 313 reporting.
 25,000 lbs. 25,000 lbs. 10,000 lbs.

If any threshold is met, reporting is required for all activities. Do not submit this worksheet with Form R. Retain for your records.

Also note that threshold determinations are based upon the actual amounts of a toxic chemical manufactured, processed, or otherwise used over the course of the calendar year. The threshold determination may not relate to the amount of a toxic chemical brought on-site during the calendar year. For example, if a stockpile of 100,000 pounds of a toxic chemical is present on-site but only 20,000 pounds is applied to a process, only the 20,000 pounds processed is counted toward a threshold determination, not the entire 100,000 pounds of the stockpile.

Threshold Determinations for On-Site Reuse/Recycle Operations.

Threshold determinations of listed toxic chemicals that are recycled or reused at the facility are based only on the amount of the toxic chemical that is added during the year, not the total volume in the system. For example, a facility operates a refrigeration unit that contains 15,000 pounds of ammonia at the beginning of the year. The system is charged with 2,000 pounds of ammonia during the year. The facility has therefore "otherwise used" only 2,000 pounds of the covered toxic chemical and is not required to report (unless there are other "otherwise use" activities of ammonia which, when taken together, exceed the reporting threshold). If, however, the whole refrigeration unit was recharged with 15,000 pounds of ammonia during the year, the facility would exceed the otherwise use threshold, and be required to report.

This exemption does not apply to toxic chemicals "recycled" off-site and returned to a facility. Such toxic chemicals returned to a facility are treated as the equivalent of newly purchased material for purposes of section 313 threshold determinations.

Threshold Determinations for Chemical Categories.

A number of chemical compound categories are subject to reporting. See Table II for a listing of these toxic chemical categories. When reporting for one of these toxic chemical categories, all individual members of a category that are manufactured, processed, or otherwise used must be counted. However, threshold determinations must be made separately for each of the three activities. Do not include in these threshold determinations for a category any chemicals that are also specifically listed section 313 toxic chemicals (see Table II) or specific toxic chemicals that have been deleted from the category (e.g., three compounds deleted from copper compound category -- see the introduction to these instructions). Specifically listed toxic chemicals are subject to their own, individual threshold determination.

Threshold determinations for metal-containing compounds present a special case. If, for example, your facility processes several different lead compounds, base your threshold determination on the total weight of all lead compounds processed. However, if your facility processes both the "parent" metal (lead) as well as one or more lead compounds, you must make threshold determinations for both because they are separately listed toxic chemicals. If your facility exceeds thresholds for both the parent metal and compounds of that same metal, EPA allows you to file one combined report (e.g., one report for lead compounds, including lead) because the release information you will report in connection with metal compounds will be the total pounds of the parent metal released.

One other case involving metal compounds should be noted. Some metal compounds may contain more than one listed metal. For example, lead chromate is both a lead compound and a chromium compound. In such cases, if applicable thresholds are exceeded, you are required to file two separate reports, one for lead compounds and one for chromium compounds. Apply the total weight of the lead chromate to the threshold determinations for both lead compounds and chromium compounds. However, only the amount of each parent metal released (not the amount of the compound) would be reported on the appropriate sections of both Form Rs.

B.4.b Mixtures and Trade Name Products

Toxic chemicals contained in mixtures and trade name products must be factored into threshold and release determinations.

If your facility processed or otherwise used mixtures or trade name products during the calendar year, you are required to use the best information available to determine whether the components of a mixture are above the de minimis concentration and, therefore, must be included in threshold and release determinations. If you know that a mixture or trade name product contains a specific toxic chemical, combine the amount of the toxic chemical in the mixture or trade name product with other amounts of the same toxic chemical processed or otherwise used at your facility for threshold and release determinations. If you know that a mixture contains a toxic chemical but no concentration information is provided by the supplier, you do not have to consider the amount of the toxic chemical present in that mixture for purposes of threshold and release determinations.

Example 5: Mixture and Trade Name Products

Scenario #1: Your facility uses 12,000 pounds of an industrial solvent (Solvent X) for equipment cleaning. The Material Safety Data Sheet (MSDS) for the solvent indicates that it contains at least 50 percent methyl ethyl ketone (MEK), a listed toxic chemical; however, it also states that the solvent contains 20 percent non-hazardous surfactants. This is the only MEK-containing chemical used at the facility.

Follow these steps to determine if the quantity of the toxic chemical in solvent x exceeds the threshold for otherwise use.

- 1) Determine a reasonable maximum concentration for the toxic chemical by subtracting out the non-hazardous surfactants (i.e., $100\% - 20\% = 80\%$).
- 2) Determine the midpoint between the known minimum (50%) and the reasonable maximum calculated above (i.e., $(80\% - 50\%) / 2 + 50 = 65\%$).
- 3) Multiply total weight of Solvent X otherwise used by 65 percent.
 $12,000 \text{ pounds} \times 0.65 = 7,800 \text{ pounds}$
- 4) Because the total amount of MEK otherwise used at the facility was less than the 10,000 pound otherwise use threshold, the facility is not required to file a Form R for MEK.

Scenario #2: Your facility otherwise used 15,000 pounds of Solvent Y to clean printed circuit boards. The MSDS for the solvent lists only that Solvent Y contains at least 80% of a listed toxic chemical which is only identified as chlorinated hydrocarbons.

Follow these steps to determine if the quantity of the toxic chemical in solvent exceeds the threshold for otherwise use.

- 1) Because the specific chemical is unknown, the Form R will be filed for "chlorinated hydrocarbons." This name will be entered into Part II, Section 2.1, "Mixture Component Identity." (Note: Because your supplier is claiming the toxic chemical identity a trade secret, you do not have to file substantiation forms.)
- 2) The upper bound limit is assumed to be 100 percent and the lower bound limit is known to be 80 percent. Using this information, the specific concentration is estimated to be 90 percent (i.e., the mid-point between upper and lower limits).
 $(1.0 + 0.80) / 2 = 0.90$
- 3) The total weight of Solvent Y is multiplied by 90 percent when calculating for thresholds.
 $15,000 \times 0.90 = 13,500$
- 4) Because the total amount of chlorinated hydrocarbons exceeds the 10,000 pound otherwise used threshold, you must file a Form R for this chemical.

Observe the following guidelines in estimating concentrations of toxic chemicals in mixtures when only limited information is available:

- If you know the lower and upper bound concentrations of a toxic chemical in a mixture, use the midpoint of these two concentrations for threshold determinations.
- If you know only the lower bound concentration, you should subtract out the percentages of any other known components to determine a reasonable upper bound concentration, and then determine a midpoint.
- If you have no information other than the lower bound concentration, calculate a midpoint assuming an upper bound concentration of 100%.
- If you only know the upper bound concentration, you must use it for threshold determinations.
- In cases where you only have a concentration range available, you should use the midpoint of the range extremes.

De Minimis Exemption. A listed toxic chemical does not have to be considered if it is present in a mixture at a concentration below a specified de minimis level. The de minimis level is 1.0%, or 0.1% if the toxic chemical meets the OSHA carcinogen standard. See Table II for the de minimis value associated with each listed toxic chemical. For mixtures that contain more than one member of a listed toxic chemical category, the de minimis level applies to the aggregate concentration of all such members and not to each individually. EPA included the de minimis exemption in the rule as a burden-reducing step, primarily because facilities are not likely to have information on the presence of a toxic chemical in a mixture or trade name product beyond that available in the product's MSDS. The de minimis levels are consistent with OSHA requirements for development of MSDS information concerning composition.

For threshold determinations, the de minimis exemption applies to:

- A listed toxic chemical in a mixture or trade name product received by the facility.

- A listed toxic chemical manufactured during a process where the toxic chemical remains in a mixture or trade name product distributed by the facility.

The de minimis exemption does not apply to:

- A toxic chemical manufactured at the facility that does not remain in a product distributed by the facility. A threshold determination must be made on the annual quantity of the toxic chemical manufactured regardless of the concentration. For example, quantities of formaldehyde created as a result of waste treatment must be applied toward the threshold for "manufacture" of this toxic chemical, regardless of the concentration of this toxic chemical in the waste.

In general, when the de minimis exemption applies to threshold determinations and the concentration of the toxic chemical in the mixture is below the de minimis limitation, then you are not required to report releases associated with the processing or otherwise use of the toxic chemical in that mixture. Note that it is possible to meet the threshold for a toxic chemical on a facility-wide basis, but not be required to calculate releases from a particular process because that process involves only mixtures containing the toxic chemical below the de minimis level.

Application of the de minimis exemption to process streams must also be reviewed. Mixtures containing toxic chemicals can be added to a process or generated within a process. A facility is required to consider and report releases from the process once the de minimis concentration level has been exceeded. All releases of the toxic chemical from the process which occur after the de minimis exemption has been exceeded are then subject to reporting, regardless of whether or not the toxic chemical concentration later falls to a level below the de minimis exemption.

Supplier Notification. Beginning in 1989, suppliers of facilities in SIC codes 20-39 are required to develop and distribute a notice if the mixtures or trade name products they manufacture or process, and subsequently distribute, contain listed toxic chemicals. These notices are distributed to other companies in SIC codes 20-39 or to companies that sell or otherwise distribute the product to facilities in SIC codes 20-39. If a MSDS is not required for

the mixture or trade name product, the notification must be in written form (i.e., letter). Otherwise, the notice must be incorporated into or attached to the MSDS for that product. The supplier notification requirement began with the first shipment of a product in 1989 and must accompany the first shipment each year thereafter. In addition, a new or revised notice must be sent if a change occurs in the product which affects the weight percent of a listed toxic chemical or if it is discovered that a previous notice did not properly identify the toxic chemicals or the percentage by weight. For more information on supplier notification, see Appendix D.

If listed toxic chemical concentrations are equal to or above the de minimis cut-off level, your supplier must identify the specific components as they appear in Table

II and provide their percentage composition by weight in the mixture or product. If your supplier maintains that the identity of a toxic chemical is a trade secret, a generic identity that is structurally descriptive must be supplied on the notice. A maximum concentration level must be provided if your supplier contends that chemical composition information is a trade secret. In either case, you do not need to make a trade secret claim on behalf of your supplier (unless you consider your use of the proprietary mixture a trade secret). On Form R, identify the toxic chemical you are reporting according to its generic name provided in the notification. (See the instructions for Part II, Section 2 for more information.) If the listed toxic chemical is present below the de minimis level, no notification is required.

C. Instructions for Completing EPA Form R

The following are specific instructions for completing each part of EPA Form R. The number designations of the parts and sections of these instructions correspond to those in Form R unless otherwise indicated.

For all parts of Form R:

1. Type or print information on the form in the units and format requested. Use black ink. (Using blue ink for the certification signature is suggested as a means of indicating its originality.)
2. All information on Form R is required.
3. Do not leave items in Parts I and II on Form R blank unless specifically directed to do so; if an item does not apply to you, enter not applicable, NA, in the space provided. If your information does not fill all the spaces provided for a type of information, enter NA, in the next blank space in the sequence.
4. Report releases, off-site transfers, and recycling activities to the nearest pound. Do not report fractions of pounds.
5. Do not submit an incomplete form. The certification statement (Part I) specifies that the report is complete as submitted. See page 1 of these instructions for the definition of a complete submission.
6. When completing additional pages for Part II of the form, number the additional information sequentially from the prior sections of the form.
7. Indicate your TRI Facility Identification Number and the toxic chemical, toxic chemical category, or generically named toxic chemical on which you are reporting in the space provided in the top right corner of each page of Form R. Completion of this non-mandatory data element will greatly aid your internal recordkeeping and the quality of EPA's data entry process.

Part I. Facility Identification Information

Section 1. Reporting Year

This is the calendar year to which the reported information applies, not the year in which you are submitting the report. Information for the 1991 reporting year must be submitted on or before July 1, 1992.

Section 2. Trade Secret Information

2.1 Are you claiming the chemical identity on page 3 trade secret?

Answer this question only after you have completed the rest of the report. The specific identity of the toxic chemical being reported in Part II, Section 1, may be designated as a trade secret. If you are making a trade secret claim, mark "yes" and proceed to Section 2.2. Only check "yes" if it is your manufacturing, processing, or otherwise use of the toxic chemical whose identity is a trade secret. (See page 1 of these instructions for specific information on trade secrecy claims.) If you checked "no," proceed to Section 3; do not answer Section 2.2.

2.2 If "yes" in 2.1, is this copy sanitized or unsanitized?

Answer this question only after you have completed the rest of the report. Check "sanitized" if this copy of the report is the public version which does not contain the toxic chemical identity but does contain a generic name in its place, and you have claimed the toxic chemical identity trade secret in Part I, Section 2.1. Otherwise, check "unsanitized."

Section 3. Certification

The certification statement must be signed by the owner or operator or a senior official with management responsibility for the person (or persons) completing the form. The owner, operator, or official must certify the accuracy and completeness of the information reported on the form by signing and dating the certification statement. Each report must contain an original signature. Print or type in the space provided the name and title of the person who signs the statement. This certification statement applies to all the information supplied on the form and should be signed only after the form has been completed.

Section 4. Facility Identification

4.1 Facility Name and Location

Enter the name of your facility (plant site name or appropriate facility designation), street address, mailing address, city, county, state, and zip code in the space provided. Do not use a post office box number as the street address. The street address provided should be the location where the toxic chemicals are manufactured, processed, or otherwise used. If your mailing address and street address are the same, enter NA in the space for the mailing address.

If you have submitted a Form R for previous reporting years, a TRI Facility Identification Number has been assigned to your facility. The TRI Facility Identification Number appears (with other facility-specific information) on the peel-off mailing label on the cover of this Toxic Chemical Release Inventory Instructions for 1991 (EPA 700-K-92-002). Remove the mailing label from the back of this document and apply it to the space marked "place label here" in Part I, Section 4.1 of the blank Form R.

If your mailing label is missing information required on Form R, insert that information in the appropriate box in Part I, Section 4.1. For example, if your label contains your street address and not your mailing address, enter your mailing address in the space provided.

If you do not have a mailing label or cannot locate your TRI Facility Identification Number, please contact the Emergency Planning and Community Right-to-Know Information Hotline.

Enter "NA" in the space for the TRI Facility Identification number if this is your first submission of a Form R.

4.2 Full or Partial Facility Indication

A covered facility must report all releases and source reduction and recycling activities of a listed toxic chemical if it meets a reporting threshold for that toxic chemical. However, if the facility is composed of several distinct establishments, EPA allows these establishments to submit separate reports for the toxic chemical as long as all releases of the toxic chemical from the entire facility are accounted for. Indicate in Section 4.2 whether your report is for the entire covered facility as a whole or for part of a covered facility. Check box (a) if the toxic

chemical information applies to the entire covered facility. Check box (b) if the toxic chemical information applies only to part of a covered facility.

Section 313 requires reports by "facilities," which are defined as "all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person."

The SIC code system defines business "establishments" as "distinct and separate economic activities [that] are performed at a single physical location." Under section 372.30(c) of the reporting rule, you may submit a separate Form R for each establishment, or for groups of establishments in your facility, provided all releases and source reduction and recycling activities involving the toxic chemical from the entire facility are reported. This allows you the option of reporting separately on the activities involving a toxic chemical at each establishment, or group of establishments (e.g., part of a covered facility), rather than submitting a single Form R for that toxic chemical for the entire facility. However, if an establishment or group of establishments does not manufacture, process, or otherwise use or release a toxic chemical, you do not have to submit a report for that establishment or group of establishments. (See also Section B.2.a of these instructions.)

4.3 Technical Contact

Enter the name and telephone number (including area code) of a technical representative whom EPA or State officials may contact for clarification of the information reported on Form R. This contact person does not have to be the same person who prepares the report or signs the certification statement and does not necessarily need to be someone at the location of the reporting facility; however, this person must be familiar with the details of the report so that he or she can answer questions about the information provided.

4.4 Public Contact

Enter the name and telephone number (including area code) of a person who can respond to questions from the public about the report. If you choose to designate the same person as both the technical and the public contact, you may enter "Same as Section 4.3" in this space. This contact person does not have to be the same person who prepares the report or signs the certification statement

and does not necessarily need to be someone at the location of the reporting facility. If this space is left blank, the technical contact will be listed as the public contact in the TRI database.

4.5 Standard Industrial Classification (SIC) Code

Enter the appropriate 4-digit primary Standard Industrial Classification (SIC) code for your facility (Table I lists the SIC codes within the 20-39 range). If the report covers more than one establishment, enter the primary 4-digit SIC code for each establishment starting with the primary SIC code for the entire facility. You are required to enter SIC codes only for those establishments within the facility that fall within SIC codes 20 to 39. If you do not know your SIC code, check with your financial office or contact your local Chamber of Commerce or State Department of Labor.

4.6 Latitude and Longitude

Enter the latitudinal and longitudinal coordinates of your facility. Sources of these data include EPA permits (e.g., NPDES permits), county property records, facility blueprints, and site plans. Instructions on how to determine these coordinates can be found in Appendix E. Enter only numerical data. Do not preface numbers with letters such as N or W to denote the hemisphere.

Latitude and longitude coordinates of your facility are very important for pinpointing the location of reporting facilities and are required elements on the Form R. EPA encourages facilities to make the best possible measurements when determining latitude and longitude. As with any other data field, missing, suspect, or incorrect data may generate a Notice of Technical Error to be issued to the facility. (See Appendix C: Common Errors in Completing Form R Reports).

4.7 Dun and Bradstreet Number

Enter the 9-digit number assigned by Dun and Bradstreet (D & B) for your facility or each establishment within your facility. These numbers code the facility for financial purposes. This number may be available from your facility's treasurer or financial officer. You can also obtain the numbers from your local Dun and Bradstreet office (check the telephone book White Pages). If a facility does not subscribe to the D & B service, a "support number" can be obtained from the Dun & Bradstreet center located in Allentown, Pennsylvania, at (215) 882-

7748 (8:30 am to 8:00 pm, Eastern Time). If none of your establishments has been assigned a D & B number, enter not applicable, NA, in box (a). If only some of your establishments have been assigned Dun and Bradstreet numbers, enter those numbers in Part I, Section 4.7.

4.8 EPA Identification Number

The EPA I.D. Number is a 12-character number assigned to facilities covered by hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). Facilities not covered by RCRA are not likely to have an assigned I.D. Number. If your facility is not required to have an I.D. Number, enter not applicable, NA, in box (a). If your facility has been assigned EPA Identification Numbers, you must enter those numbers in the spaces provided in Section 4.8.

4.9 NPDES Permit Number

Enter the numbers of any permits your facility holds under the National Pollutant Discharge Elimination System (NPDES) even if the permit(s) do not pertain to the toxic chemical being reported. This 9-character permit number is assigned to your facility by EPA or the State under the authority of the Clean Water Act. If your facility does not have a permit, enter not applicable, NA, in Section 4.9a.

4.10 Underground Injection Well Code (UIC) Identification Number

If your facility has a permit to inject a waste containing the toxic chemical into Class 1 deep wells, enter the 12-digit Underground Injection Well Code (UIC) identification number assigned by EPA or by the State under the authority of the Safe Drinking Water Act. If your facility does not hold such a permit(s), enter not applicable, NA, in Section 4.10a. You are only required to provide the UIC number for wells that receive the toxic chemical being reported.

Section 5. Parent Company Information

You must provide information on your parent company. For purposes of Form R, a parent company is defined as the highest level company, located in the United States, that directly owns at least 50 percent of the voting stock of your company. If your facility is owned by a foreign entity, enter not applicable, NA, in this space. Corporate names should be treated as parent company names for companies with multiple facility sites. For example, the

Bestchem Corporation is not owned or controlled by any other corporation but has sites throughout the country whose names begin with Bestchem. In this case, Bestchem Corporation would be listed as the "parent" company.

5.1 Name of Parent Company

Enter the name of the corporation or other business entity that is your ultimate US parent company. If your facility has no parent company, check the NA box.

5.2 Parent Company's Dun & Bradstreet Number

Enter the Dun and Bradstreet Number for your ultimate US parent company, if applicable. The number may be obtained from the treasurer or financial officer of the company. If your parent company does not have a Dun and Bradstreet number, check the NA box.

Part II Chemical Specific Information

In Part II, you are to report on:

- The toxic chemical being reported;
- The general uses and activities involving the toxic chemical at your facility;
- Releases of the toxic chemical from the facility to air, water, and land;
- Quantities of the toxic chemical transferred to off-site locations;
- Information for on-site waste treatment, energy recovery, and recycling of the toxic chemical; and
- Source reduction activities.

Section 1. Toxic Chemical Identity

1.1 CAS Number

Enter the Chemical Abstracts Service (CAS) registry number in Section 1.1 exactly as it appears in Table II for the chemical being reported. CAS numbers are cross-referenced with an alphabetical list of chemical names in Table II of these instructions. If you are reporting one of the toxic chemical categories in Table II (e.g., chromium compounds), enter the applicable category code in the CAS number space. Toxic chemical category codes are listed below and can also be found in Table II.

Toxic Chemical Category Codes

N010	Antimony compounds
N020	Arsenic compounds
N040	Barium compounds
N050	Beryllium compounds
N078	Cadmium compounds
N084	Chlorophenols
N090	Chromium compounds
N096	Cobalt compounds
N100	Copper compounds
N106	Cyanide compounds
N230	Glycol ethers
N420	Lead compounds
N450	Manganese compounds
N458	Mercury compounds
N495	Nickel compounds
N575	Polybrominated biphenyls (PBBs)
N725	Selenium compounds
N740	Silver compounds
N760	Thallium compounds
N982	Zinc compounds

If you are making a trade secret claim, you must report the CAS number or category code on your unsanitized Form R and unsanitized substantiation form. Do not include the CAS number or category code on your sanitized Form R or sanitized substantiation form.

1.2 Toxic Chemical or Chemical Category Name

Enter the name of the toxic chemical or chemical category exactly as it appears in Table II. If the toxic chemical name is followed by a synonym in parentheses, report the chemical by the name that directly follows the CAS number (i.e., not the synonym). If the listed toxic chemical identity is actually a product trade name (e.g., dicofol), the 9th *Collective Index* name is listed below it in brackets. You may report either name in this case.

Do not list the name of a chemical that does not appear in Table II, such as individual members of a reportable toxic chemical category. For example, if you use silver nitrate, do not report silver nitrate with its CAS number. Report this chemical as "silver compounds" with its category code, N740.

If you are making a trade secret claim, you must report the specific toxic chemical identity on your unsanitized Form R and unsanitized substantiation form. Do not report the name of the toxic chemical on your sanitized Form R or sanitized substantiation form. Include a generic name in Part II, Section 1.3 of your sanitized Form R report.

EPA requests that the toxic chemical, chemical category, or generic name also be placed in the box marked "Chemical, Category, or Generic Name" in the upper right-hand corner on all pages of Form R. While this space is not a required data element, providing this information will help you in preparing a complete Form R report.

1.3 Generic Chemical Name

Complete Section 1.3 only if you are claiming the specific toxic chemical identity of the toxic chemical as a trade secret and have marked the trade secret block in Part I, Section 2.1 on page 1 of Form R. Enter a generic chemical name that is descriptive of the chemical structure. You must limit the generic name to seventy characters (e.g., numbers, letters, spaces, punctuation) or less. Do not enter mixture names in Section 1.3; see Section 2 below.

In-house plant codes and other substitute names that are not structurally descriptive of the toxic chemical identity being withheld as a trade secret are not acceptable as a generic name. The generic name must appear on both sanitized and unsanitized Form R's, and the name must be the same as that used on your substantiation forms.

Section 2. Mixture Component Identity

Do not complete this section if you have completed Section 1 of Part II. Report the generic name provided to you by your supplier in this section if your supplier is claiming the chemical identity proprietary or trade secret. Do not answer "yes" in Part I, Section 2.1 on page 1 of the form if you complete this section. You do not need to supply trade secret substantiation forms for this toxic chemical because it is your supplier who is claiming the chemical identity a trade secret.

2.1 Generic Chemical Name Provided by Supplier

Enter the generic chemical name in this section only if the following three conditions apply:

1. You determine that the mixture contains a listed toxic chemical but the only identity you have for that chemical is a generic name;
2. You know either the specific concentration of that toxic chemical component or a maximum or average concentration level; and
3. You multiply the concentration level by the total annual amount of the whole mixture processed or otherwise used and determine that you meet the process or otherwise use threshold for that single, generically identified mixture component.

Example 6: Mixture Containing Unidentified Toxic Chemical

Your facility uses 20,000 pounds of a solvent that your supplier has told you contains 80 percent "chlorinated aromatic," their generic name for a toxic chemical subject to reporting under section 313. You therefore know that you have used 16,000 pounds of some listed toxic chemical which exceeds the "otherwise use" threshold. You would file a Form R and enter the name "chlorinated aromatic" in the space provided in Part II, Section 2.

Section 3. Activities and Uses of the Toxic Chemical at the Facility

Indicate whether the toxic chemical is manufactured (including imported), processed, or otherwise used at the facility and the general nature of such activities and uses at the facility during the calendar year. Report activities that take place only at your facility, not activities that take place at other facilities involving your products. You must check all the boxes in this section that apply. If you are a manufacturer of the toxic chemical, you must check (a) and/or (b), and at least one of (c), (d), (e), or (f) in Section 3.1. Refer to the definitions of "manufacture," "process," and "otherwise use" in the general information section of these instructions or Part 40, Section 372.3 of the *Code of Federal Regulations* for additional explanations.

3.1 Manufacture the Toxic Chemical

Persons who manufacture (including import) the toxic chemical must check at least one of the following:

- a. *Produce* - the toxic chemical is produced at the facility.
- b. *Import* - the toxic chemical is imported by the facility into the Customs Territory of the United States. (See Section B.3.a of these instructions for further clarification of import.)

And check at least one of the following:

- c. *For on-site use/processing* - the toxic chemical is produced or imported and then further processed or otherwise used at the same facility. If you check this block, you must also check at least one item in Part II, Section 3.2 or 3.3.
- d. *For sale/distribution* - the toxic chemical is produced or imported specifically for sale or distribution outside the manufacturing facility.
- e. *As a byproduct* - the toxic chemical is produced coincidentally during the production, processing, otherwise use, or disposal of another chemical substance or mixture and, following its production, is separated from that other chemical substance or mixture. Toxic chemicals produced and released as a result of waste treatment or disposal are also considered byproducts.

- f. *As an impurity* - the toxic chemical is produced coincidentally as a result of the manufacture, processing, or otherwise use of another chemical but is not separated and remains primarily in the mixture or product with that other chemical.

3.2 Process the Toxic Chemical (incorporative activities)

- a. *As a reactant* - A natural or synthetic toxic chemical used in chemical reactions for the manufacture of another chemical substance or of a product. Includes, but is not limited to, feedstocks, raw materials, intermediates, and initiators.
- b. *As a formulation component* - A toxic chemical added to a product (or product mixture) prior to further distribution of the product that acts as a performance enhancer during use of the product. Examples of toxic chemicals used in this capacity include, but are not limited to, additives, dyes, reaction diluents, initiators, solvents, inhibitors, emulsifiers, surfactants, lubricants, flame retardants, and rheological modifiers.
- c. *As an article component* - A toxic chemical that becomes an integral component of an article distributed for industrial, trade, or consumer use. One example is the pigment components of paint applied to a chair that is sold.
- d. *Repackaging* - Processing or preparation of a toxic chemical (or product mixture) for distribution in commerce in a different form, state, or quantity.

This includes, but is not limited to, the transfer of material from a bulk container, such as a tank truck to smaller containers such as cans or bottles.

3.3 Otherwise Use the Toxic Chemical (non-incorporative activities)

- a. *As a chemical processing aid* - A toxic chemical that is added to a reaction mixture to aid in the manufacture or synthesis of another chemical substance but is not intended to remain in or become part of the product or product mixture. Examples of such toxic chemicals include, but are not limited to, process solvents, catalysts, inhibitors, initiators, reaction terminators, and solution buffers.
- b. *As a manufacturing aid* - A toxic chemical that aids the manufacturing process but does not become part of the resulting product and is not added to the reaction mixture during the manufacture or synthesis of another chemical substance. Examples include, but are not limited to, process lubricants, metalworking fluids, coolants, refrigerants, and hydraulic fluids.
- c. *Ancillary or other use* - A toxic chemical that is used at a facility for purposes other than aiding chemical processing or manufacturing as described above. Examples include, but are not limited to, cleaners, degreasers, lubricants, fuels, and toxic chemicals used for treating wastes.

Example 7: Activities and Uses of Toxic Chemicals

In the example below, it is assumed that the threshold quantities for manufacture, process, or otherwise use (25,000 pounds, 25,000 pounds, and 10,000 pounds, respectively, for calendar year 1991) have been exceeded and the reporting of listed toxic chemicals is therefore required.

Your facility manufactures sulfuric acid. Fifty percent is sold as a product. The remaining 50 percent is reacted with naphthalene, forming phthalic acid and also producing sulfur dioxide fumes.

- Your company manufactures sulfuric acid, a listed toxic chemical, both for sale/distribution as a commercial product and for on-site use/processing as a feedstock in the phthalic acid production process. Because the sulfuric acid is a reactant, it is also processed. See Figure 3 for how this information would be reported in Part II, Section 3 of Form R.
- Your facility also processes naphthalene, as a reactant to produce phthalic acid, a chemical not on the section 313 list.

Figure 3

SECTION 1. TOXIC CHEMICAL IDENTITY		(Important: DO NOT complete this section if you complete Section 2 below.)	
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)	7664-93-9	
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)	Sulfuric Acid	
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes." Generic Name must be structurally descriptive.)		

SECTION 2. MIXTURE COMPONENT IDENTITY		(Important: DO NOT complete this section if you complete Section 1 above.)	
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)		

SECTION 3. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY			
(Important: Check all that apply.)			
3.1	Manufacture the toxic chemical:	a. <input checked="" type="checkbox"/> Produce b. <input type="checkbox"/> Import	<u>If produce or import:</u> c. <input checked="" type="checkbox"/> For on-site use/processing d. <input type="checkbox"/> For sale/distribution e. <input type="checkbox"/> As a byproduct f. <input type="checkbox"/> As an impurity
3.2	Process the toxic chemical:	a. <input checked="" type="checkbox"/> As a reactant b. <input type="checkbox"/> As a formulation component	c. <input type="checkbox"/> As an article component d. <input type="checkbox"/> Repackaging
3.3	Otherwise use the toxic chemical:	a. <input type="checkbox"/> As a chemical processing aid b. <input type="checkbox"/> As a manufacturing aid	c. <input type="checkbox"/> Ancillary or other use

Section 4. Maximum Amount of the Toxic Chemical On-Site at Any Time During the Calendar Year

For data element 4.1 of Part II, insert the code (see below) that indicates the maximum quantity of the toxic chemical (e.g., in storage tanks, process vessels, on-site shipping containers) at your facility at any time during the calendar year. If the toxic chemical was present at several locations within your facility, use the maximum total amount present at the entire facility at any one time.

Weight Range in Pounds

Range Code	From...	To...
01	0	99
02	100	999
03	1,000	9,999
04	10,000	99,999
05	100,000	999,999
06	1,000,000	9,999,999
07	10,000,000	49,999,999
08	50,000,000	99,999,999
09	100,000,000	499,999,999
10	500,000,000	999,999,999
11	1 billion	more than 1 billion

If the toxic chemical present at your facility was part of a mixture or trade name product, determine the maximum quantity of the toxic chemical present at the facility by calculating the weight percent of the toxic chemical only.

Do not include the weight of the entire mixture or trade name product. This data may be found in the Tier II form your facility may have prepared under Section 312 of EPCRA. See Part 40, Section 372.30(b) of the *Code of Federal Regulations* for further information on how to calculate the weight of the toxic chemical in the mixture or trade name product. For toxic chemical categories (e.g., nickel compounds), include all chemical compounds in the category when calculating the maximum amount, using the entire weight of each compound.

Section 5. Releases of the Toxic Chemical to the Environment On-Site

In Section 5, you must account for the total aggregate releases of the toxic chemical to the environment from your facility for the calendar year.

Do not enter the values in Section 5 in gallons, tons, liters, or any measure other than pounds. You must also enter the values as whole numbers. Numbers following a decimal point are not acceptable.

Releases to the environment include emissions to the air, discharges to surface waters, and on-site releases to land and underground injection wells. If you have no releases to a particular media (e.g., stack air), you must check the "NA" box or enter zero; do not leave any part of Section 5 blank. Check the box on the last line of this section if you use the additional space for Section 5.3 on page 5 of the Form.

You are not required to count, as a release, quantities of a toxic chemical that are lost due to natural weathering or corrosion, normal/natural degradation of a product, or normal migration of a toxic chemical from a product. For example, amounts of a listed toxic chemical that migrate from plastic products in storage do not have to be counted in estimates of releases of that toxic chemical from the facility. Also, amounts of listed metal compounds (e.g., copper compounds) that are lost due to normal corrosion of process equipment do not have to be considered as releases of copper compounds from the facility.

All releases of the toxic chemical to the air must be classified as either a point or non-point emission, and included in the total quantity reported for these releases in Sections 5.1 and 5.2. Instructions for columns A, B, and C follow the discussions of Sections 5.1 through 5.5.

5.1 Fugitive or Non-Point Air Emissions

Report the total of all releases of the toxic chemical to the air that are not released through stacks, vents, ducts, pipes, or any other confined airstream. You must include (1) fugitive equipment leaks from valves, pump seals, flanges, compressors, sampling connections, open-ended lines, etc.; (2) evaporative losses from surface impoundments and spills; (3) releases from building ventilation systems; and (4) any other fugitive or non-point air emissions. Engineering estimates and mass balance calculations (using purchase records, inventories, engineering knowledge or process specifications of the quantity of the toxic chemical entering product, hazardous waste manifests, or monitoring records) may be useful in estimating fugitive emissions.

5.2 Stack or Point Air Emissions

Report the total of all releases of the toxic chemical to the air that occur through stacks, vents, ducts, pipes, or other confined air streams. You must include storage tank emissions. Air releases from air pollution control equipment would generally fall in this category. Monitoring data, engineering estimates, and mass balance calculations may help you to complete this section.

5.3 Discharges to Receiving Streams or Water Bodies

In Section 5.3 you are to enter the name(s) of the stream(s) or water body(ies) to which your facility directly discharges the toxic chemical on which you are reporting. A total of three spaces are provided; however, other streams or water bodies to which the toxic chemical is discharged can be reported in the additional spaces for Section 5.3 found on page 5 of Form R. Enter the name of each receiving stream or surface water body to which the toxic chemical being reported is directly discharged. Report the name of the receiving stream or water body as it appears on the NPDES permit for the facility. If the stream is not covered by a permit, enter the name of the off-site stream or water body by which it is publicly known. Do not list a series of streams through which the toxic chemical flows. Be sure to include the receiving stream(s) or water body(ies) that receive stormwater runoff from your facility. Do not enter names of streams to which off-site treatment plants discharge. Enter "NA" in Section 5.3.1 if you do not discharge the listed toxic chemical to surface water bodies.

Enter the total annual amount of the toxic chemical released from all discharge points at the facility to each receiving stream or water body. Include process outfalls such as pipes and open trenches, releases from on-site wastewater treatment systems, and the contribution from stormwater runoff, if applicable (see instructions for column C below). Do not include discharges to a POTW or other off-site wastewater treatment facilities in this section. These off-site transfers must be reported in Part II, Section 6 of Form R.

Wastewater analyses and flowmeter data may provide the quantities you will need to complete this section.

Discharges of listed acids (e.g., hydrogen fluoride; hydrogen chloride; nitric acid; phosphoric acid; and sulfuric acid) may be reported as zero if the discharges have been neutralized to pH 6 or above. If wastewater containing a listed mineral acid is discharged below pH 6, then

releases of the mineral acid must be reported. In this case, pH measurements may be used to estimate the amount of mineral acid released.

If you must report more than three discharges to receiving streams or water bodies, check the box at the bottom of page 4 and enter the additional information on the following page, in Section 5.3, Additional Information on Releases of the Toxic Chemical to the Environment On-Site. In Section 5.3 on page 5, blanks in the data elements are provided so you may continue the numeration you began on page 4.

5.4 Underground Injection On-Site

Enter the total annual amount of the toxic chemical that was injected into all wells, including Class I wells, at the facility. Chemical analyses, injection rate meters, and RCRA Hazardous Waste Generators Reports are good sources for obtaining data that will be useful in completing this section. Check the Not Applicable "NA" box in Section 5.4 if you do not inject the reported toxic chemical into underground wells.

5.5 Releases to Land On-Site

Four predefined subcategories for reporting quantities released to land within the boundaries of the facility are provided. Do not report land disposal at off-site locations in this section. Accident histories and spill records may be useful (e.g., release notification reports required under Section 304 of EPCRA and accident histories required under Section 112(r)(7)(B)(ii) of the Clean Air Act).

5.5.1 Landfill—Typically, the ultimate disposal method for solid wastes is landfilling. Leaks from landfills need not be reported as a release because the amount of the toxic chemical in the landfill has already been reported as a release.

5.5.2 Land treatment/application farming—Land treatment is a disposal method in which a waste containing a listed toxic chemical is applied onto or incorporated into soil. While this disposal method is considered a release to land, any volatilization of listed toxic chemicals into the air occurring during the disposal operation must be included in the total fugitive air releases reported in Part II, Section 5.1 of Form R.

5.5.3 Surface impoundment—A surface impoundment is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials

(although some may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids. Examples of surface impoundments are holding, settling, storage, and elevation pits; ponds; and lagoons. If the pit, pond, or lagoon is intended for storage or holding without discharge, it would be considered to be a surface impoundment used as a final disposal method.

Quantities of the toxic chemical released to surface impoundments that are used merely as part of a wastewater treatment process generally must not be reported in this section. However, if the impoundment accumulates sludges containing the toxic chemical, you must include an estimate in this section unless the sludges are removed and otherwise disposed (in which case they should be reported under the appropriate section of the form). For the purposes of this reporting, storage tanks are not considered to be a type of disposal and are not to be reported in this section of Form R.

5.5.4 Other disposal — Includes any amount of a listed toxic chemical released to land that does not fit the categories of landfills, land treatment, or surface impoundment. This other disposal would include any spills or leaks of listed toxic chemicals to land. For example, 2,000 pounds of benzene leaks from a underground pipeline into the land at a facility. Because the pipe was only a few feet from the surface at the erupt point, 30 percent of the benzene evaporates into the air. The 600 pounds released to the air would be reported as a fugitive air release (Part II, Section 5.1) and the remaining 1,400 pounds would be reported as a release to land, other disposal (Part II, Section 5.5.4).

5. Column A Total Release

Only on-site releases of the toxic chemical to the environment for the calendar year are to be reported in this section of Form R. The total releases from your facility do not include transfers or shipments of the toxic chemical from your facility for sale or distribution in commerce, or of wastes to other facilities for waste treatment, recycling, disposal, or energy recovery (see Part II, Section 6 of these Instructions). Both routine releases, such as fugitive air emissions, and accidental or non-routine releases, such as chemical spills, must be included in your estimate of the quantity released. EPA requires no more than two significant digits when reporting releases (e.g., 7,521 pounds would be reported as 7,500 pounds).

Releases of Less Than 1,000 Pounds. For total annual releases or off-site transfers of a toxic chemical from the

facility of less than 1,000 pounds, the amount may be reported either as an estimate or by using the range codes that have been developed. The reporting range codes to be used are:

Code	Range (pounds)
A	1-10
B	11-499
C	500-999

Do not enter a range code and an estimate in the same box in column A. Total annual releases or off-site transfers of a toxic chemical from the facility of less than 1 pound may be reported in one of several ways. You should round the value to the nearest pound. If the estimate is 0.5 pounds or greater, you should either enter the range code "A" for "1-10" or enter "1" in column A. If the release is less than 0.5 pounds, you may round to zero and enter "0" in column A.

Note that total annual releases of less than 0.5 pounds from the processing or otherwise use of an article maintain the article status of that item. Thus, if the only releases you have are from processing an article, and such releases are less than 0.5 pounds per year, you are not required to submit a report for that toxic chemical. The 0.5-pound release determination does not apply to just a single article. It applies to the cumulative releases from the processing or otherwise use of the same type of article (e.g., sheet metal or plastic film) that occurs over the course of the calendar year.

Zero Releases. If you have no releases of a toxic chemical to a particular medium, report either NA, not applicable, or 0, as appropriate. Report NA only when there is no possibility a release could have occurred to a specific media or off-site location. If a release to a specific media or off-site location could have occurred, but either did not occur or the annual aggregate release was less than 0.5 pounds, report zero. However, if you report zero releases, a basis of estimate must be provided in column B.

For example, if hydrochloric acid is involved in the facility's processing activities but the facility neutralizes the wastes to a pH of 6 or above, then the facility reports a 0 release for the toxic chemical. If the facility has no underground injection well, "NA" would be written in Part I, Section 4.10 and checked in Part II, Section 5.4 of Form R. Also, if the facility does not landfill the acidic waste, NA would be checked in Part II, Section 5.5.1 of Form R.

Releases of 1,000 Pounds or More. For releases to any medium that amount to 1,000 pounds or more for the year, you must provide an estimate in pounds per year in column A. Any estimate provided in column A should be reported to no more than two significant figures. This estimate should be in whole numbers. Do not use decimal points.

Calculating Releases. To provide the release information required in column A in this section, you must use all readily available data (including relevant monitoring data and emissions measurements) collected at your facility to meet other regulatory requirements or as part of routine plant operations, to the extent you have such data for the toxic chemical.

When relevant monitoring data or emission measurements are not readily available, reasonable estimates of the amounts released must be made using published emission factors, material balance calculations, or engineering calculations. You may not use emission factors or calculations to estimate releases if more accurate data are available.

No additional monitoring or measurement of the quantities or concentrations of any toxic chemical released into the environment, or of the frequency of such releases, beyond that which is required under other provisions of law or regulation or as part of routine plant operations, is required for the purpose of completing Form R.

You must estimate, as accurately as possible, the quantity (in pounds) of the toxic chemical or chemical category that is released annually to each environmental medium. Include only the quantity of the toxic chemical in this estimate. If the toxic chemical present at your facility was part of a mixture or trade name product, calculate only the releases of the toxic chemical, not the other components of the mixture or trade name product. If you are only able to estimate the releases of the mixture or trade name product as a whole, you must assume that the release of the toxic chemical is proportional to its concentration in the mixture or trade name product. See Part 40, Section 372.30(b) of the *Code of Federal Regulations* for further information on how to calculate the concentration and weight of the toxic chemical in the mixture or trade name product.

If you are reporting a toxic chemical category listed in Table II of these instructions rather than a specific toxic chemical, you must combine the release data for all chemicals in the listed toxic chemical category (e.g., all

glycol ethers or all chlorophenols) and report the aggregate amount for that toxic chemical category. Do not report releases of each individual toxic chemical in that category separately. For example, if your facility releases 3,000 pounds per year of 2-chlorophenol, 4,000 pounds per year of 3-chlorophenol, and 4,000 pounds per year of 4-chlorophenol to air as fugitive emissions, you should report that your facility releases 11,000 pounds per year of chlorophenols to air as fugitive emissions in Part II, Section 5.1.

For listed toxic chemicals with the qualifier "solution," such as ammonium nitrate, at concentrations of 1 percent (or 0.1 percent in the case of a carcinogen) or greater, the chemical concentrations must be factored into threshold and release calculations because threshold and release amounts relate to the amount of toxic chemical in solution, not the amount of solution.

For metal compound categories (e.g., chromium compounds), report releases of only the parent metal. For example, a user of various inorganic chromium salts would report the total chromium released regardless of the chemical form (e.g., as the original salts, chromium ion, oxide) and exclude any contribution to mass made by other species in the molecule.

5. Column B Basis of Estimate

For each release estimate, you are required to indicate the principal method used to determine the amount of release reported. You will enter a letter code that identifies the method that applies to the largest portion of the total estimated release quantity.

The codes are as follows:

- M- Estimate is based on monitoring data or measurements for the toxic chemical as transferred to an off-site facility.
- C- Estimate is based on mass balance calculations, such as calculation of the amount of the toxic chemical in wastes entering and leaving process equipment.
- E- Estimate is based on published emission factors, such as those relating release quantity to throughput or equipment type (e.g., air emission factors).

Example 8: Calculating Releases

Your facility disposes of 14,000 pounds of lead chromate ($\text{PbCrO}_4 \cdot \text{PbO}$) in an on-site landfill and transfers 16,000 pounds of lead selenite (PbSeO_4) to an off-site land disposal facility. You would therefore be submitting three separate reports on the following: lead compounds, selenium compounds, and chromium compounds. However, the quantities you would be reporting would be the pounds of "parent" metal being released or transferred off-site. All quantities are based on mass balance calculations (See Section 5.B for information on Basis of Estimate and Section 6.C for waste treatment or disposal codes and information on transfers of toxic chemicals in wastes). You would calculate releases of lead, chromium, and selenium by first determining the percentage by weight of these metals in the materials you use as follows:

Lead Chromate ($\text{PbCrO}_4 \cdot \text{PbO}$) -	Molecular weight = 546.37
Lead 2 Pb -	Molecular weight = $207.2 \times 2 = 414.4$
Chromate 1 Cr -	Molecular weight = 51.996
Lead chromate is therefore (% by weight)	

$$(414.4/546.37) = 75.85\% \text{ lead and}$$

$$(51.996/546.37) = 9.52\% \text{ chromium}$$

Lead Selenite (PbSeO_4)	Molecular weight = 350.17
Lead 1 Pb	Molecular weight = 207.2
Selenium 1 Se	Molecular weight = 78.96
Lead selenite is therefore (% by weight)	

$$(207.2/350.17) = 59.17\% \text{ lead and}$$

$$(78.96/350.17) = 22.55\% \text{ selenium.}$$

The total pounds of lead, chromium, and selenium released or transferred from your facility are as follows:

Lead

Release: $0.7585 \times 14,000 = 10,619$ pounds from lead chromate (round to 11,000 pounds)

Transfer: $0.5917 \times 16,000 = 9,467$ pounds from lead selenite (round to 9,500 pounds)

Chromium

Release: $0.0952 \times 14,000 = 1,333$ pounds from lead chromate (round to 1,300 pounds)

Selenium

Transfer: $0.2255 \times 16,000 = 3,608$ pounds of selenium from lead round to 3,600 pounds)

- O- Estimate is based on other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgment. This would include applying an estimated removal efficiency to a treatment, even if the composition of the waste before treatment was fully identified through monitoring data.

For example, if 40 percent of stack emissions of the reported toxic chemical were derived using monitoring data, 30 percent by mass balance, and 30 percent by emission factors, you would enter the code letter "M" for monitoring.

If the monitoring data, mass balance, or emission factor used to estimate the release is not specific to the toxic chemical being reported, the form should identify the estimate as based on engineering calculations or best engineering judgment.

If a mass balance calculation yields the flow rate of a waste, but the quantity of reported toxic chemical in the waste is based on solubility data, report "O" because "engineering calculations" were used as the basis of estimate of the quantity of the toxic chemical in the waste.

If the concentration of the toxic chemical in the waste was measured by monitoring equipment and the flow rate of the waste was determined by mass balance, then the primary basis of the estimate is "monitoring" (M). Even though a mass balance calculation also contributed to the estimate, "monitoring" should be indicated because monitoring data was used to estimate the concentration of the waste.

Mass balance (C) should only be indicated if it is directly used to calculate the mass (weight) of toxic chemical released. Monitoring data should be indicated as the basis of estimate only if the toxic chemical concentration is measured in the waste being released into the environment. Monitoring data should not be indicated, for example, if the monitoring data relates to a concentration of the toxic chemical in other process streams within the facility.

It is important to realize that the accuracy and proficiency of release estimation will improve over time. However, submitters are not required to use new emission factors or estimation techniques to revise previous Form R submissions.

5. Column C Percent From Stormwater

This column relates only to Section 5.3 — discharges to receiving streams or water bodies. If your facility has monitoring data on the amount of the toxic chemical in stormwater runoff (including unchanneled runoff), you must include that quantity of the toxic chemical in your water release in column A and indicate the percentage of the total quantity (by weight) of the toxic chemical contributed by stormwater in column C (Section 5.3C).

If your facility has monitoring data on the toxic chemical and an estimate of flow rate, you must use this data to determine the percent stormwater.

If you have monitored stormwater but did not detect the toxic chemical, enter zero (0) in column C. If your facility has no stormwater monitoring data for the chemical, enter not applicable, "NA," in this space on the form.

If your facility does not have periodic measurements of stormwater releases of the toxic chemical, but has submitted chemical-specific monitoring data in permit applications, then these data must be used to calculate the percent contribution from stormwater. Rates of flow can be estimated by multiplying the annual amount of rainfall by the land area of the facility and then multiplying that figure by the runoff coefficient. The runoff coefficient represents the fraction of rainfall that does not seep into the ground but runs off as stormwater. The runoff coefficient is directly related to how the land in the drainage area is used. (See table below.)

Description of Land Area	Runoff Coefficient
Business	
Downtown areas	0.70-0.95
Neighborhood areas	0.50-0.70
Industrial	
Light areas	0.50-0.80
Heavy areas	0.60-0.90
Railroad yard areas	0.20-0.40
Unimproved areas	0.10-0.30
Streets	
Asphaltic	0.70-0.95
Concrete	0.80-0.95
Brick	0.70-0.85
Drives and walks	0.70-0.85
Roofs	0.75-0.95
Lawns: Sandy Soil	
Flat, 2%	0.05-0.10
Average, 2-7%	0.10-0.15
Steep, 7%	0.15-0.20

Example 9: Releases from Stormwater

Your stormwater monitoring data shows that the average concentration of zinc in the stormwater runoff from your facility from a biocide containing a zinc compound is 1.4 milligrams per liter, and the total annual stormwater discharge from the facility is 7.527 million gallons. The total amount of zinc discharged to surface water through the plant wastewater discharge (non-stormwater) is 250 pounds per year. The total amount of zinc discharged with stormwater is:

$$(7,527,000 \text{ gallons stormwater}) \times (3.785 \text{ liters/gallon}) = 28,489,695 \text{ liters stormwater}$$

$$(28,489,695 \text{ liters stormwater}) \times (1.4 \text{ mg. zinc/liter}) = 39,885.6 \text{ grams zinc} = 88 \text{ pounds zinc}$$

The total amount of zinc discharged from all sources of your facility is:

$$\begin{array}{r} 250 \text{ pounds zinc from wastewater discharge} \\ + 88 \text{ pounds zinc from stormwater runoff} \\ \hline 338 \text{ pounds zinc total water discharge} \end{array}$$

Round to 340 pounds of zinc on Form R.

The percentage of zinc discharged through stormwater is:

$$88/338 \times 100 = 26\%$$

Lawns: Heavy Soil

Flat, 2%	0.13-0.17
Average, 2-7%	0.18-0.22
Steep, 7%	0.25-0.35

Choose the most appropriate runoff coefficient for your site or calculate a weighted-average coefficient, which takes into account different types of land use at your facility:

$$\text{Weighted-average runoff coefficient} = \frac{(\text{Area 1 \% of total})(C1) + (\text{Area 2 \% of total})(C2) + (\text{Area 3 \% of total})(C3) + \dots + (\text{Area i \% of total})(Ci)}{\text{Total Area}}$$

where C_i = runoff coefficient for a specific land use of Area i .

Section 6 Transfers of the Toxic Chemical in Wastes to Off-Site Locations

You must report in this section the total annual quantity of the toxic chemical in wastes sent to any off-site facility for the purposes of waste treatment, disposal, recycling, or energy recovery. Note that beginning with reporting year 1991, off-site transfers for the purposes of recycling and energy recovery are required to be reported. Report the total amount of the toxic chemical transferred off-site after any on-site waste treatment, recycling, or

removal is completed. Do not report transfers of listed mineral acids if they have been neutralized to a pH of 6 or above prior to discharge to a Publicly Owned Treatment Works (POTW).

If you do not discharge wastewater containing the reported toxic chemical to a POTW, enter not applicable, NA, in the box for the POTW's name in Section 6.1.B. If you do not ship or transfer wastes containing the reported toxic chemical to other off-site locations, enter not applicable, NA, in the box for the off-site location's EPA Identification Number in Section 6.2.

Important: Beginning with the 1991 reporting year, you must number the boxes for reporting the information for each POTW or other off-site location in Sections 6.1 and 6.2. In the upper left hand corner of each box, the section number is either 6.1.B. or 6.2.

If you report a transfer of the listed toxic chemical to one or more POTW, number the boxes in Section 6.1.B as 6.1.B.1, 6.1.B.2, etc. If you transfer the listed toxic chemical to more than two POTWs, photocopy page 5 of Form R as many times as necessary and then number the boxes consecutively for each POTW. At the bottom of page 5 you will find instructions for indicating the total number of page 5s that you are submitting as part of Form R, as well as indicating the sequence of those pages. For

Example 10: Stormwater Runoff

Your facility is located in a semi-arid region of the United States which has an annual precipitation (including snowfall) of 12 inches of rain. (Snowfall should be converted to the equivalent inches of rain; assume one foot of snow is equivalent to one inch of rain.) The total area covered by your facility is 42 acres (about 170,000 square meters or 1,829,520 square feet). The area of your facility is 50 percent unimproved area, 10 percent asphaltic streets, and 40 percent concrete pavement.

The total stormwater runoff from your facility is therefore calculated as follows:

Land Use	% Total Area	Runoff Coefficient
Unimproved area	50	0.20
Asphaltic streets	10	0.85
Concrete pavement	40	0.90

Weighted-average runoff coefficient = $(50\%) \times (0.20) + (10\%) \times (0.85) + (40\%) \times (0.90) = 0.545$

(Rainfall) \times (land area) \times (conversion factor) \times (runoff coefficient) = stormwater runoff

$(1 \text{ foot}) \times (1,829,520 \text{ ft}^2) \times (7.48 \text{ gal/ft}^3) \times (0.545) = 7,458,221 \text{ gallons/year}$

Total stormwater runoff = 7.45 million gallons/year

example, your facility transfers the reported toxic chemical in wastewaters to three POTWs. You would photocopy page 5 once, indicate at the bottom of each page 5 that there are a total of two page 5s and then indicate the first and second page 5. The boxes for the two POTWs on the first page 5 would be numbered 6.1.B.1 and 6.1.B.2, while the box for the third POTW on the second page 5 would be numbered 6.1.B.3.

If you report a transfer of the listed toxic chemical to one or more other off-site locations, number the boxes in Section 6.2 as 6.2.1, 6.2.2, etc. If you transfer the listed toxic chemical to more than two other off-site locations, photocopy page 6 of Form R as many times as necessary and then number the boxes consecutively for each off-site location. At the bottom of page 6 you will find instructions for indicating the total number of page 6s that you are submitting as part of Form R as well as indicating the sequence of those pages. For example, your facility transfers the reported toxic chemical to three other off-site locations. You would photocopy page 6 once, indicate at the bottom of each page 6 that there are a total of two page 6s and then indicate the first and second page 6. The boxes for the two off-site locations on the first page 6 would be numbered 6.2.1 and 6.2.2, while the box for the third off-site location on the second page 6 would be numbered 6.2.3.

6.1 Discharges to Publicly Owned Treatment Works (POTW)

In Section 6.1.A, estimate the quantity of the reported toxic chemical transferred to all POTWs and the basis upon which the estimate was made. In Section 6.1.B, enter the name and address for each POTW to which your facility discharges wastewater containing the reported toxic chemical.

If you do not discharge wastewater containing the reported toxic chemical to a POTW, enter not applicable, NA, in the box for the POTW's name in Section 6.1.B.

6.1.A.1 Total Transfers

Enter the total amount, in pounds, of the reported toxic chemical that is contained in the wastewaters transferred to all POTWs. Do not enter the total poundage of the wastewaters. If the total amount transferred is less than 1,000 pounds, you may report a range by entering the appropriate range code. The following reporting range codes are to be used:

Code	Reporting Range (in pounds)
A	1-10
B	11-499
C	500-99

6.1.A.2 Basis of Estimate

You must identify the basis for your estimate of the total quantity of the reported toxic chemical in the wastewaters transferred to all POTWs. Enter one of the following letter codes that applies to the method by which the largest percentage of the estimate was derived.

- M- Estimate is based on monitoring data or measurements for the toxic chemical as transferred to an off-site facility.
- C - Estimate is based on mass balance calculations, such as calculation of the amount of the toxic chemical in streams entering and leaving process equipment.
- E - Estimate is based on published emission factors, such as those relating release quantity to throughput or equipment type (e.g., air emission factors).
- O - Estimate is based on other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgment. This would include applying an estimated removal efficiency to a waste stream, even if the composition of the stream before treatment was fully identified through monitoring data.

If you transfer a toxic chemical to more than one POTW, you should report the basis of estimate that was used to determine the largest percentage of the toxic chemical that was transferred.

6.2 Transfers to Other Off-Site Locations

In Section 6.2, enter the EPA Identification Number, name, and address for each off-site location to which your facility ships or transfers wastes containing the reported toxic chemical for the purposes of waste treatment, disposal, recycling, or energy recovery. Also estimate the quantity of the reported toxic chemical transferred and the basis upon which the estimate was made. If appropriate, you must report multiple activities (up to four) for each off-site location. For example, if your facility sends a reported toxic chemical in wastes to an

off-site location where some of the toxic chemical is to be recycled while the remainder of the quantity transferred is to be treated, you must report both the waste treatment and recycle activities, along with the quantity associated with each activity.

If you do not ship or transfer wastes containing the reported toxic chemical to other off-site locations, enter not applicable, NA, in the box for the off-site location's EPA Identification Number in Section 6.2. The EPA Identification Number (defined in 40 CFR 260.10 and therefore commonly referred to as the RCRA ID Number) may be found on the Uniform Hazardous Waste Manifest, which is required by RCRA regulations. If you ship or transfer wastes containing a toxic chemical and the off-site location does not have an EPA Identification Number (e.g., it does not accept RCRA hazardous wastes or the wastes in question are not classified as hazardous), enter NA in the box for the off-site location EPA Identification Number. If you ship or transfer the reported toxic chemical in wastes to another country, enter the Federal Information Processing Standards (FIPS) code for that country in the country field of the address for the off-site facility. The most commonly used FIPS codes are listed below.

The following is an abridged list of countries to which a U.S. facility might ship a listed toxic chemical. For a complete listing of FIPS codes, consult your local library.

Country	Code
Argentina	AR
Belgium	BE
Bolivia	BL
Brazil	BR
Canada	CA
Chile	CI
Columbia	CO
Costa Rica	CS
Cuba	CU
Ecuador	EC
El Salvador	ES
France	FR
Guatemala	GT
Honduras	HO
Ireland	EI
Italy	IT
Mexico	MX
Nicaragua	NU
Panama	PM
Paraguay	PA
Peru	PE

Country	Code
Portugal	PO
Puerto Rico	RQ
Spain	SP
Switzerland	SZ
United Kingdom	UK
Uruguay	UY
Venezuela	VE

You must distinguish between incineration, which is always considered waste treatment, and combustion where energy is actually recovered. When the reported toxic chemical has a significant heat of combustion value, and is transferred to an off-site location for combustion in an industrial kiln, furnace, or boiler, report the quantity as used for the purposes of energy recovery. However, toxic chemicals with little or no heat of combustion value (e.g., metals, chlorofluorocarbons) must be reported as treated.

6.2 column A Total Transfers

For each off-site location, enter the total amount, in pounds, of the toxic chemical that is contained in the waste transferred to that location. Do not enter the total poundage of the waste. If the total amount transferred is less than 1,000 pounds, you may report a range by entering the appropriate range code. The following reporting range codes are to be used:

Code	Reporting Range (in pounds)
A	1-10
B	11-499
C	500-999

If you transfer the toxic chemical in wastes to an off-site facility for distinct and multiple purposes, you must report those activities (up to four) for each off-site location, along with the quantity of the reported toxic chemical associated with each activity. For example, your facility transfers a total of 15,000 pounds of toluene to an off-site location that will use 5,000 pounds for the purposes of energy recovery, enter 7,500 pounds into a recovery process, and dispose of the remaining 2,500 pounds. These quantities and the associated activity codes must be reported separately in Section 6.2. (See Figure 4 for a hypothetical Section 6.2 completed for two off-site locations, one of which receives the transfer of 15,000 pounds of toluene as detailed.) If more than four activities are performed on distinct quantities at the off-site location, list the predominant four activities but still report all quantities sent to the off-site location.

Do not double or multiple count amounts transferred off-site. For example, when a reported toxic chemical is sent to an off-site facility for sequential activities and the specific quantities associated with each activity are unknown, report only a single quantity (the total quantity transferred to the off-site location) along with a single activity code. In such a case, report the activity applied to the majority of the reported toxic chemical sent off-site, not the ultimate disposition of the toxic chemical. For example, when a toxic chemical is first treated and then recovered with the majority of the toxic chemical being treated and only a fraction subsequently recovered, report the appropriate waste treatment activity along with the quantity.

6.2 column B Basis of Estimate

You must identify the basis for your estimates of the quantities of the reported toxic chemical in wastes transferred to each off-site location. Enter one of the following letter codes that applies to the method by which the largest percentage of the estimate was derived.

- M - Estimate is based on monitoring data or measurements for the toxic chemical as transferred to an off-site facility.
- C - Estimate is based on mass balance calculations, such as calculation of the amount of the toxic chemical in wastes entering and leaving process equipment.
- E - Estimate is based on published emission factors, such as those relating release quantity to throughput or equipment type (e.g., air emission factors).
- O - Estimate is based on other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgment. This would include applying an estimated removal efficiency to a treatment, even if the composition of the waste before treatment was fully identified through monitoring data.

6.2 column C Type of Waste Treatment/Disposal/Recycling/Energy Recovery

Enter one of the following codes to identify the type of waste treatment, disposal, recycling or energy recovery methods used by the off-site location for the reported toxic chemical. You must use more than one line and

Figure 4
Hypothetical Section 6.2 Completed for Two Off-site Locations

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS			
6.2.1 Off-site EPA Identification Number (RCRA ID No.)		COD 566162461	
Off-Site Location Name Acme Waste Services			
Street Address 5 Market Street			
City Releaseville		County Hill	
State CO	Zip Code 80461	Is location under control of reporting facility or parent company? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
A. Total Transfers (pounds/year) (enter range code or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)	
1. 5,000	1. O	1. M 56	
2. 7,500	2. C	2. M 20	
3. 2,500	3. O	3. M 72	
4. NA	4.	4. M	

This off-site location receives a transfer of 15,000 pounds of toluene (as discussed earlier) and will combust 5,000 pounds for the purposes of energy recovery, enter 7,500 pounds into a recovery process, and dispose of the remaining 2,500 pounds.

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS			
6.2.2 Off-site EPA Identification Number (RCRA ID No.)		COD 61772543	
Off-Site Location Name Combustion, Inc.			
Street Address 25 Facility Road			
City Dumfry		County Burns	
State CO	Zip Code 80500	Is location under control of reporting facility or parent company? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
A. Total Transfers (pounds/year) (enter range code or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)	
1. 12,500	1. O	1. M 54	
2. NA	2.	2. M	
3.	3.	3. M	
4.	4.	4. M	

This off-site location receives a transfer of 12,500 pounds of tetrachloroethylene (perchloroethylene) that is part of a waste that is combusted for the purposes of energy recovery in an industrial furnace. Note that the perchloroethylene is reported using code M54 to indicate that it is combusted in an energy recovery unit but it does not contribute to the heating value of the waste.

code for a single location when distinct quantities of the reported toxic chemical are subject to different waste treatment, disposal, recycling, or energy recovery methods. You may have this information in your copy of EPA Form SO, Item S of the Annual/Biennial Hazardous Waste Treatment, Storage, and Disposal Report (RCRA), or in your invoices from the waste service(s) or broker(s) receiving your wastes for the purposes of waste treatment, disposal, recycling, or energy recovery.

You must distinguish between incineration, which is waste treatment, and legitimate energy recovery. In order for you to claim that a reported toxic chemical sent off-site is used for the purposes of energy recovery and not for waste treatment, the toxic chemical must have a heating value high enough to sustain combustion and must be combusted in an energy recovery unit such as an industrial boiler, furnace, or kiln. In a situation where the reported toxic chemical is in a waste that is combusted in an energy recovery unit, but the toxic chemical does not have a heating value high enough to sustain combustion, use code M54, Incineration/Insignificant Fuel Value, to indicate that the toxic chemical was incinerated in an energy recovery unit but did not contribute to the heating value of the waste (see Figure 4 for an example).

Applicable codes for Part II, Section 6.2, column C are:

Disposal

M10	Storage Only
M71	Underground Injection
M72	Landfill/Disposal Surface Impoundment
M73	Land Treatment
M79	Other Land Disposal
M94	Transfer to Waste Broker—Disposal

Recycling

M20	Solvents/Organics Recovery
M24	Metals Recovery
M26	Other Reuse or Recovery
M28	Acid Regeneration
M93	Transfer to Waste Broker—Recycling

Waste Treatment

M40	Solidification/Stabilization
M50	Incineration/Thermal Treatment
M54	Incineration/Insignificant Fuel Value
M61	Wastewater Treatment (Excluding POTW)
M69	Other Waste Treatment
M95	Transfer to Waste Broker—Waste Treatment

Energy Recovery

M56	Energy Recovery
M92	Transfer to Waste Broker—Energy Recovery

Section 7 On-Site Waste Treatment, Energy Recovery and Recycling Methods

You must report in this section the methods of waste treatment, energy recovery, and recycling applied to the reported toxic chemical in wastes on-site. There are three separate sections for reporting such activities.

Section 7A On-Site Waste Treatment Methods and Efficiency

In Section 7A, you must provide the following information if you treat the reported toxic chemical on-site:

- the general waste stream types containing the toxic chemical being reported;
- the waste treatment method(s) or sequence used on all waste streams containing the toxic chemical;
- the range of concentration of the toxic chemical in the influent to the waste treatment method;
- the efficiency of each waste treatment method or waste treatment sequence in removing the toxic chemical; and
- whether the waste treatment efficiency figure was based on actual operating data.

Use a separate line in Section 7A for each general waste stream type. Report only information about treatment of waste streams at your facility, not information about off-site waste treatment.

If you do not perform on-site treatment of waste streams containing the reported toxic chemical, check the Not Applicable (NA) box at the top of Section 7A.

7A column a General Waste Stream

For each waste treatment method, indicate the type of waste stream containing the toxic chemical that is treated. Enter the letter code that corresponds to the general waste stream type:

A	Gaseous (gases, vapors, airborne particulates)
W	Wastewater (aqueous waste)
L	Liquid waste streams (non-aqueous waste)
S	Solid waste streams (including sludges and slurries)

If a waste is a mixture of water and organic liquid and the organic content is less than 50 percent, report it as a wastewater (W). Slurries and sludges containing water must be reported as solid waste if they contain appreciable amounts of dissolved solids, or solids that may settle, such that the viscosity or density of the waste is considerably different from that of process wastewater.

7A column b Waste Treatment Method(s) Sequence

Enter the appropriate code from the list below for each on-site waste treatment method used on a waste stream containing the toxic chemical, regardless of whether the waste treatment method actually removes the specific toxic chemical being reported. Waste treatment methods must be reported for each type of waste stream being treated (i.e., gaseous waste streams, aqueous waste streams, liquid non-aqueous waste streams, and solids). Except for the air emission treatment codes, the waste treatment codes are not restricted to any medium.

Waste streams containing the toxic chemical may have a single source or may be aggregates of many sources. For example, process water from several pieces of equipment at your facility may be combined prior to waste treatment. Report waste treatment methods that apply to the aggregate waste stream, as well as waste treatment methods that apply to individual waste streams. If your facility treats various wastewater streams containing the toxic chemical in different ways, the different waste treatment methods must be listed separately.

If your facility has several pieces of equipment performing a similar service in a waste treatment sequence, you may combine the reporting for such equipment. It is not necessary to enter four codes to cover four scrubber units, for example, if all four are treating waste streams of similar character (e.g., sulfuric acid mist emissions), have similar influent concentrations, and have similar removal efficiencies. If, however, any of these parameters differs from one unit to the next, each scrubber must be listed separately.

If your facility performs more than eight sequential waste treatment methods on a single general waste stream, continue listing the methods in the next row and renumber appropriately those waste treatment method code boxes you used to continue the sequence. For example, if the general waste stream in box 7A.1a had nine treatment methods applied to it, the ninth method would be indicated in the first method box for row 7A.2a. The numeral "1" would be crossed out, and a "9" would be inserted.

Treatment applied to any other general waste stream types would then be listed in the next empty row. In the scenario above, for instance, the second general waste stream would be reported in row 7A.3a. See Figure 5 below for an example of a hypothetical Section 7A completed for a nine-step waste treatment process and a single waste treatment method.

If you need additional space to report under Section 7A, photocopy page 7 of Form R as many times as necessary. At the bottom of page 7 you will find instructions for indicating the total number of page 7s that you are submitting as part of Form R, as well as instructions for indicating the sequence of those pages.

Waste Treatment Codes

Air Emissions Treatment (applicable to gaseous waste streams only)

- A01 Flare
- A02 Condenser
- A03 Scrubber
- A04 Absorber
- A05 Electrostatic Precipitator
- A06 Mechanical Separation
- A07 Other Air Emission Treatment

Biological Treatment

- B11 Biological Treatment — Aerobic
- B21 Biological Treatment — Anaerobic
- B31 Biological Treatment — Facultative
- B99 Biological Treatment — Other

Chemical Treatment

- C01 Chemical Precipitation — Lime or Sodium Hydroxide
- C02 Chemical Precipitation — Sulfide
- C09 Chemical Precipitation — Other
- C11 Neutralization
- C21 Chromium Reduction
- C31 Complexed Metals Treatment (other than pH Adjustment)
- C41 Cyanide Oxidation — Alkaline Chlorination
- C42 Cyanide Oxidation — Electrochemical
- C43 Cyanide Oxidation — Other
- C44 General Oxidation (including Disinfection) — Chlorination
- C45 General Oxidation (including Disinfection) — Ozonation

Figure 5
Hypothetical Section 7A

SECTION 7A. ON-SITE WASTE TREATMENT METHODS AND EFFICIENCY										
<input type="checkbox"/> Not Applicable (NA) - Check here if <u>no</u> on-site waste treatment is applied to any waste stream containing the toxic chemical or chemical category.										
a. General Waste Stream (enter code)	b. Waste Treatment Method(s) Sequence (enter 3-character code(s))				c. Range of Influent Concentration	d. Waste Treatment Efficiency Estimate	e. Based on Operating Data?			
7A.1a	7A.1b	1	P12	2	P18	7A.1c	7A.1d	7A.1e		
W	3	P17	4	P61	5	P42	A	%	Yes	No
	6	P21	7	B21	8	P11			<input type="checkbox"/>	<input type="checkbox"/>
7A.2a	7A.2b	9	C44	2		7A.2c	7A.2d	7A.2e		
	3		4		5		99 %	Yes	No	
	6		7		8			<input checked="" type="checkbox"/>	<input type="checkbox"/>	
7A.3a	7A.3b	1	A01	2		7A.3c	7A.3d	7A.3e		
A	3		4		5	A	91 %	Yes	No	
	6		7		8			<input checked="" type="checkbox"/>	<input type="checkbox"/>	

C46 General Oxidation (including Disinfection) —
Other

C99 Other Chemical Treatment

Incineration/Thermal Treatment

F01 Liquid Injection
F11 Rotary Kiln with Liquid Injection Unit
F19 Other Rotary Kiln
F31 Two Stage
F41 Fixed Hearth
F42 Multiple Hearth
F51 Fluidized Bed
F61 Infra-Red
F71 Fume/Vapor
F81 Pyrolytic Destructor
F82 Wet Air Oxidation
F83 Thermal Drying/Dewatering
F99 Other Incineration/Thermal Treatment

Physical Treatment

P01 Equalization
P09 Other Blending
P11 Settling/Clarification
P12 Filtration
P13 Sludge Dewatering (non-thermal)
P14 Air Flotation
P15 Oil Skimming
P16 Emulsion Breaking — Thermal
P17 Emulsion Breaking — Chemical
P18 Emulsion Breaking — Other
P19 Other Liquid Phase Separation
P21 Adsorption — Carbon
P22 Adsorption — Ion Exchange (other than for recovery/reuse)
P23 Adsorption — Resin
P29 Adsorption — Other
P31 Reverse Osmosis (other than for recovery/reuse)
P41 Stripping — Air
P42 Stripping — Steam
P49 Stripping — Other
P51 Acid Leaching (other than for recovery/reuse)
P61 Solvent Extraction (other than recovery/reuse)
P99 Other Physical Treatment

Solidification/Stabilization

G01 Cement Processes (including Silicates)
G09 Other Pozzolonic Processes (including Silicates)
G11 Asphaltic Processes
G21 Thermoplastic Techniques
G99 Other Solidification Processes

7A column c Range of Influent Concentration

The form requires an indication of the range of concentration of the toxic chemical in the waste stream (i.e., the influent) as it typically enters the waste treatment step or sequence. The concentration is based on the amount or mass of the toxic chemical in the waste stream as compared to the total amount or mass of the waste stream. Enter in the space provided one of the following code numbers corresponding to the concentration of the toxic chemical in the influent:

- 1 = Greater than 1 percent
- 2 = 100 parts per million (0.01 percent) to 1 percent (10,000 parts per million)
- 3 = 1 part per million to 100 parts per million
- 4 = 1 part per billion to 1 part per million
- 5 = Less than 1 part per billion

Note: Parts per million (ppm) is:

- o milligrams/kilogram (mass/mass) for solids and liquids;
- o cubic centimeters/cubic meter (volume/volume) for gases;
- o milligrams/liter for solutions or dispersions of the chemical in water; and
- o milligrams of chemical/kilogram of air for particulates in air.

If you have particulate concentrations (at standard temperature and pressure) as grains/cubic foot of air, multiply by 1766.6 to convert to parts per million; if in milligrams/cubic meter, multiply by 0.773 to obtain parts per million. These conversion factors are for standard conditions of 0°C (32°F) and 760 mmHg atmospheric pressure.

7A column d Waste Treatment Efficiency Estimate

In the space provided, enter the number indicating the percentage of the toxic chemical removed from the waste stream through destruction, biological degradation, chemical conversion, or physical removal. The waste treatment efficiency (expressed as percent removal) represents the percentage of the toxic chemical destroyed or removed (based on amount or mass), not merely changes in volume or concentration of the toxic chemical in the waste stream. The efficiency, which can reflect the overall removal from sequential treatment methods applied to the general waste stream, refers only to the percent destruction, degradation, conversion, or removal of the listed toxic chemical from the waste stream, not the percent conversion or removal of other constituents in the waste stream. The efficiency also does not refer to the general efficiency of the treatment method for any waste stream. For some waste treatment methods, the percent removal will represent removal by several mechanisms, as in an aeration basin, where a toxic chemical may evaporate, be biodegraded, or be physically removed from the sludge.

Percent removal can be calculated as follows:

$$\frac{(I - E)}{I} \times 100, \text{ where}$$

I = amount of the toxic chemical in the influent waste stream (entering the waste treatment step or sequence) and

E = amount of the toxic chemical in the effluent waste stream (exiting the waste treatment step or sequence).

Calculate the amount of the toxic chemical in the influent waste stream by multiplying the concentration (by weight) of the toxic chemical in the waste stream by the total amount or weight of the waste stream. In most cases, the percent removal compares the treated effluent to the influent for the particular type of waste stream. For solidification of wastewater, the waste treatment efficiency can be reported as 100 percent if no volatile toxic chemicals were removed with the water or evaporated into the air. Percent removal does not apply to incineration because the waste stream, such as wastewater or liquids, may not exist in a comparable form after waste treatment and the purpose of incineration as a waste treatment is to destroy the toxic chemical by converting it to carbon dioxide and water. In cases where the toxic chemical is incinerated, the percent efficiency must be based on the amount of the toxic chemical destroyed or

combusted, except for metals or metal compounds. In the cases where a metal or metal compound is incinerated, the efficiency is always zero for the parent metal.

Similarly, an efficiency of zero must be reported for any waste treatment method(s) (e.g., evaporation) that does not destroy, chemically convert, or physically remove the toxic chemical from the waste stream.

For metal compounds, the calculation of the reportable concentration and waste treatment efficiency must be based on the weight of the parent metal, not on the weight of the metal compounds. Metals are not destroyed, only physically removed or chemically converted from one form into another. The waste treatment efficiency reported must represent only physical removal of the parent metal from the waste stream (except for incineration), not the percent chemical conversion of the metal compound. If a listed waste treatment method converts but does not remove a metal (e.g., chromium reduction), the method must be reported with a waste treatment efficiency of zero.

Listed toxic chemicals that are strong mineral acids neutralized to a pH of 6 or above are considered treated at a 100 percent efficiency.

All data available at your facility must be used to calculate waste treatment efficiency and influent toxic chemical concentration. If data are lacking, estimates must be made using best engineering judgment or other methods.

7A column e Based on Operating Data?

This column requires you to indicate "Yes" or "No" to whether the waste treatment efficiency estimate is based on actual operating data. For example, you would check "Yes" if the estimate is based on monitoring of influent and effluent wastes under typical operating conditions.

If the efficiency estimate is based on published data for similar processes or on equipment supplier's literature, or if you otherwise estimated either the influent or effluent waste comparison or the flow rate, check "No."

Section 7B On-Site Energy Recovery Processes

In Section 7B, you must indicate the on-site energy recovery methods used on the reported toxic chemical. If you do not perform on-site energy recovery for the reported toxic chemical, check the Not Applicable (NA) box at the top of Section 7B.

Example 11: Reporting On-Site Energy Recovery

One waste stream generated by your facility contains, among other chemicals, toluene and cadmium. Threshold quantities are exceeded for both of these toxic chemicals, and you would, therefore, submit two separate Form R reports. This waste stream is sent to an on-site industrial furnace which uses the heat generated in a thermal hydrocarbon cracking process at your facility. Because toluene has a significant heat value (17,440 BTU/pound) and the energy is recovered in an industrial furnace, the code "U02" would be reported in Section 7B for the Form R submitted for toluene.

However, as cadmium is a non-combustible metal and therefore does not contribute any heat value for energy recovery purposes, the combustion of cadmium in the industrial furnace is considered waste treatment, not energy recovery. You would report cadmium as entering a waste treatment step (i.e., incineration), in Section 7A, column b.

Only listed toxic chemicals that have a significant heating value and are combusted in an energy recovery unit such as an industrial furnace, kiln, or boiler, can be reported as combusted for energy recovery in this section. If a reported toxic chemical is incinerated on-site but does not contribute energy to the process (e.g., metals and chlorofluorocarbons), it must be considered waste treated on-site and reported in Section 7A. Energy recovery may take place only in one of the types of energy recovery equipment listed below.

Energy Recovery Codes

- U01 Industrial Kiln
- U02 Industrial Furnace
- U03 Industrial Boiler
- U09 Other Energy Recovery Methods

If your facility uses more than one on-site energy recovery method for the reported toxic chemical, list the methods used in descending order (greatest to least) based on the amount of the toxic chemical entering such methods.

Section 7C On-Site Recycling Processes

In Section 7C, you must report the recycling methods used on the listed toxic chemical. If you do not conduct any on-site recycling of the reported toxic chemical, check the Not Applicable (NA) box at the top of Section 7C.

In this section, use the codes below to report only the recycling methods in place at your facility that are applied to the listed toxic chemical. Do not list any off-site recycling activities (Information about off-site recycling must be reported in Part II, Section 6, "Transfers of the Toxic Chemical in Wastes to Off-Site Locations,").

On-Site Recycling Codes

- R11 Solvents/Organics Recovery — Batch Still Distillation
- R12 Solvents/Organics Recovery — Thin-Film Evaporation
- R13 Solvents/Organics Recovery — Fractionation
- R14 Solvents/Organics Recovery — Solvent Extraction
- R19 Solvents/Organics Recovery — Other
- R21 Metals Recovery — Electrolytic
- R22 Metals Recovery — Ion Exchange
- R23 Metals Recovery — Acid Leaching
- R24 Metals Recovery — Reverse Osmosis
- R26 Metals Recovery — Solvent Extraction
- R27 Metals Recovery — High Temperature
- R28 Metals Recovery — Retorting
- R29 Metals Recovery — Secondary Smelting
- R30 Metals Recovery — Other
- R40 Acid Regeneration
- R99 Other Reuse or Recovery

If your facility uses more than one on-site recycling method for a toxic chemical, enter the codes in the space provided in descending order (greatest to least) of the volume of the reported toxic chemical recovered by each process. If your facility uses more than ten separate methods for recycling the reported toxic chemical on-site, then list the ten activities that recover the greatest amount of the toxic chemical (again, in descending order).

Section 8 Source Reduction and Recycling Activities

This Section includes the new data elements mandated by section 6607 of the Pollution Prevention Act of 1990 (PPA). Section 8 is now a required section of Form R and must be completed. This is the first reporting year these data are being collected. They are included in the Form R for reports due on or before July 1, 1992, covering source reduction and recycling activities in calendar year 1991. You are not required to amend previous year's submissions to include this information.

In Section 8, you must provide information about source reduction and recycling activities related to the toxic chemical for which releases are being reported. For all appropriate questions, report only the quantity, in pounds, of the reported toxic chemical. Do not include the weight of water, soil, or other waste constituents. When reporting on a metal compound, report only the amount of the parent metal as you do when estimating release amounts. All amounts must be reported in whole numbers and up to two significant figures can be provided.

Section 8.1 through 8.9 must be completed for each toxic chemical. Section 8.10 must be completed only if a source reduction activity was newly implemented specifically (in whole or in part) for the reported toxic chemical during the reporting year. Section 8.11 allows you to indicate if you have attached additional optional information on source reduction, recycling, or pollution control activities implemented at any time at your facility.

Sections 8.1 through 8.7 require reporting of quantities for the current reporting year, the prior year, and quantities anticipated in both the first year immediately following the reporting year and the second year following the reporting year (future estimates).

Column A: 1990 (Prior Year)

Quantities for Sections 8.1 through 8.7 must be reported for the year immediately preceding the reporting year in column A. For reports due July 1, 1992, the prior year is 1990. Information available at the facility that may be used to estimate the prior year's quantities include the prior year's Form R submission, supporting documentation, and recycling, energy recovery, or treatment operating logs or invoices.

EPA believes that such data should be available, especially in those cases where the facility has filed a Form R for the reported toxic chemical in the prior year. However, for the first year of reporting these data elements, 1991, prior year quantities are required only to the extent such information is available. In the event that sufficient data are not available, enter not applicable, "NA."

Column B: 1991 (Reporting Year)

Quantities for Sections 8.1 through 8.7 must be reported for the current reporting year in column B.

Columns C and D: 1992 and 1993 (Following Year and Second Year)

Quantities for Sections 8.1 through 8.7 must be estimated for 1992 and 1993. EPA expects reasonable future quantity estimates using a logical basis. Information available at the facility to estimate quantities of the chemical expected during these years include planned source reduction activities, market projections, expected contracts, anticipated new product lines, company growth projections, and production capacity figures. Not applicable, "NA", may not be entered for these data elements. Respondents should take into account protections available for trade secrets as provided in EPCRA Section 322 (42 USC 11042).

Example 12: Reporting Future Estimates

A pharmaceutical manufacturing facility uses a listed toxic chemical in the manufacture of a prescription drug. During the reporting year (1991), the company received approval from the Food and Drug Administration to begin marketing their product as an over-the-counter drug beginning in 1992. This approval is publicly known and does not constitute confidential business information. As a result of this expanded market, the company estimates that sales and subsequent production of this drug will increase their use of the reported toxic chemical by 30 percent per year for the two years following the reporting year. The facility treats the toxic chemical on-site and the quantity treated is directly proportional to production activity. The facility thus estimates the total quantity of the reported toxic chemical treated for the following year (1992) by adding 30 percent to the amount in column B (the amount for the current reporting year). The second year (1993) figure can be calculated by adding an additional 30 percent to the amount reported in Column C (the amount for the following year (1992) projection).

Relationship to Other Laws

The reporting categories for quantities recycled, treated, used for energy recovery, and disposed apply to completing Section 8 of Form R as well as to the rest of Form R. These categories are to be used only for TRI reporting. They are not intended for use in determining, under the Resource Conservation and Recovery Act (RCRA) Subtitle C regulations, whether a secondary material is a waste when recycled. These definitions also do not apply to the information that may be submitted in the Biennial Report required under RCRA. In addition, these definitions do not imply any future redefinition of RCRA terms and do not affect EPA's RCRA authority or authority under any other statute administered by EPA.

Differences in terminology and reporting requirements for toxic chemicals reported on Form R and for hazardous wastes regulated under RCRA occur because EPCRA and the PPA focus on specific chemicals, while the RCRA regulations and the Biennial Report focus on wastes, including mixtures. For example, a RCRA hazardous waste containing a section 313 toxic chemical is recycled to recover certain constituents of that waste, but not the toxic chemical reported under EPCRA section 313. The toxic chemical simply passes through the recycling process and remains in the residual from the recycling process. While the waste may be considered recycled under RCRA, the toxic chemical constituent would be considered to be treated for TRI purposes.

Quantities Reportable in Sections 8.1 - 8.7

8.1 Report releases pursuant to EPCRA Section 329(8) including "any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing [on-site or off-site] into the environment (including the abandonment of barrels, containers, and other closed receptacles)." Do not include any quantity treated on-site or off-site.

8.2 - 8.3 A toxic chemical or a mixture containing a toxic chemical that is used for energy recovery on-site or is sent off-site for energy recovery, unless it is a commercially available fuel. For the purposes of reporting on Form R, reportable on-site and off-site energy recovery is the combustion of a residual material containing a TRI toxic chemical when:

- (a) The combustion unit is integrated into an energy recovery system (i.e., industrial furnaces, industrial kilns, and boilers); and

- (b) The toxic chemical is combustible and has a heating value high enough to sustain combustion.

8.4 - 8.5 A toxic chemical or a mixture containing a toxic chemical that is recycled on-site or is sent off-site for recycling.

8.6 - 8.7 A toxic chemical or a mixture containing a toxic chemical that is treated on-site or is sent to a POTW or other off-site location for waste treatment.

A toxic chemical or a mixture identified as a waste under RCRA must be reported in Sections 8.1 through 8.7.

Avoid Double-Counting in Sections 8.1 Through 8.8

Section 8 of Form R uses data collected to complete Part II, Sections 5 through 7. For this reason, Section 8 should be completed last.

Do not double- or multiple-count quantities in Sections 8.1 through 8.7. The quantities reported in each of those sections must be mutually exclusive. Do not multiple-count quantities entering sequential reportable activities. For example, 5,000 pounds of toxic chemical enters a treatment operation. Three thousand pounds of the toxic chemical exits the treatment operation and then enters a recycling operation. Five hundred pounds of the toxic chemical is in residues from the recycling operation which is subsequently sent off-site for disposal. These quantities would be reported as follows in Section 8:

Section 8.1:	500 pounds disposed
Section 8.4:	2,500 pounds recycled
Section 8.6:	2,000 pounds treated (5,000 that initially entered - 3,000 that subsequently entered recycling)

To report that 5,000 pounds were treated, 3,000 pounds were recycled, and that 500 pounds were sent off-site for disposal would result in over-counting the quantities of toxic chemical recycled, treated, and disposed by 3,500 pounds.

Do not include in Sections 8.1 through 8.7 any quantities of the toxic chemical released into the environment due to remedial actions; catastrophic events such as earthquakes, fires, or floods; or unanticipated one-time events not associated with the production process such as tank ruptures or reactor explosions. These quantities should be reported in Section 8.8 only. For example, 10,000 pounds of diaminoaniline sulfate is released due to a catastrophic event and is subsequently treated on-site.

The 10,000 pounds is reported in Section 8.8, but the amount subsequently treated on-site is not reported in Section 8.6.

8.8 Quantity Released to the Environment as a Result of Remedial Actions, Catastrophic Events, or One-Time Events Not Associated with Production Processes.

In Section 8.8, enter the total quantity of toxic chemical released directly into the environment or sent off-site for recycling, waste treatment, energy recovery, or disposal during the reporting year due to any of the following events:

- (1) remedial actions,
- (2) catastrophic events such as earthquakes, fires, or floods; or
- (3) one-time events not associated with normal or routine production processes.

These quantities should not be included in Sections 8.1 through 8.7. The amount of toxic chemical released into the environment during remediation or transferred off-site is to be reported in Part II, Sections 5 and 6 as appropriate.

The purpose of this section is to separate quantities recycled, used for energy recovery, treated, or disposed that are associated with normal or routine production operations from those that are not. While all quantities released, recycled, treated, or disposed may ultimately be preventable, this section separates the quantities that

are more likely to be reduced or eliminated by process-oriented source reduction activities from those releases that are largely unpredictable and are less amenable to such source reduction activities. For example, spills that occur as a routine part of production operations and could be reduced or eliminated by improved handling, loading, or unloading procedures are included in the quantities reported in Section 8.1 through 8.7 as appropriate. A total loss of containment resulting from a tank rupture caused by a tornado would be included in the quantity reported in Section 8.8.

Similarly, the amount of a toxic chemical spilled or cleaned up from normal operations during the reporting year would be included in the quantities reported in Sections 8.1 through 8.7. However, the quantity of the reported toxic chemical generated from a remedial action (e.g., RCRA corrective action) to clean up the environmental contamination resulting from past practices should be reported in Section 8.8 because they cannot currently be addressed by source reduction methods. A remedial action for purposes of Section 8.8 is a waste cleanup (including RCRA and CERCLA operations) within the facility boundary. Most remedial activities involve collecting and treating contaminated material.

Also, releases caused by catastrophic events are to be incorporated into the quantity reported in Section 8.8. Such releases may be caused by natural disasters (e.g., hurricanes and earthquakes) or by large scale accidents (e.g., fires and explosions). These amounts are not included in the quantity reported in Sections 8.1 through 8.7 because such releases are generally unanticipated and

Example 13: Quantity Released to the Environment as a Result of Remedial Actions, Catastrophic Events, or One-Time Events Not Associated with Production Processes.

A chemical manufacturer produces a toxic chemical in a reactor that operates at low pressure. The reactants and the toxic chemical product are piped in and out of the reactor at monitored and controlled temperatures. During normal operations, small amounts of fugitive emissions occur from the valves and flanges in the pipelines.

Due to a malfunction in the control panel (which is state-of-the-art and undergoes routine inspection and maintenance), the temperature and pressure in the reactor increase, the reactor ruptures, and the toxic chemical is released. Because the malfunction could not be anticipated and, therefore, could not be reasonably addressed by specific source reduction activities, the amount released is included in Section 8.8. In this case, much of the toxic chemical is released as a liquid and pools on the ground. It is estimated that 1,000 pounds of the toxic chemical pooled on the ground and was subsequently collected and sent off-site for treatment. In addition, it is estimated that another 200 pounds of the toxic chemical vaporized directly to the air from the rupture. The total amount reported in Section 8.8 is the 1,000 pounds that pooled on the ground (and subsequently sent off-site), plus the 200 pounds that vaporized into the air, a total of 1,200 pounds. The quantity sent off-site must also be reported in Section 6 (but not in Section 8.7) and the quantity that vaporized must be reported as a fugitive emission in Section 5 (but not in Section 8.1).

cannot be addressed by routine process-oriented accident prevention techniques.

By checking your documentation for calculating estimates made for Part II, Section 5, "Releases of the Toxic Chemical to the Environment," you may be able to identify release amounts from the above sources. Emergency notifications under CERCLA and EPCRA as well as accident histories required under the Clean Air Act may provide useful information. You should also check facility incident reports and maintenance records to identify one-time or catastrophic events.

Note that while the information reported in Section 8.8 represents only remedial, catastrophic, or one-time events not associated with production processes, Section 5 of Form R (releases to the environment) and Section 6 (off-site transfers), must include all releases and transfers as appropriate, regardless of whether they arise from catastrophic, remedial, or routine process operations.

8.9 Production Ratio or Activity Index

For Section 8.9, you must provide a ratio of reporting year production to prior year production, or provide an "activity index" based on a variable other than production that is the primary influence on the quantity of the reported toxic chemical recycled, used for energy recovery, treated, or disposed. The ratio or index must be reported to the nearest tenths or hundredths place (e.g., one or two digits to the right of the decimal point). If the manufacture or use of the reported toxic chemical began during the current reporting year, enter not applicable, "NA," as the production ratio or activity index.

It is important to realize that if your facility reports more than one reported toxic chemical, the production ratio or activity index may vary for different chemicals. For facilities that manufacture reported toxic chemicals, the quantities of the toxic chemical(s) produced in the current and prior years provide a good basis for the ratio because that is the primary business activity associated with the reported toxic chemical(s). In most cases, the production ratio or activity index must be based on some variable of production or activity rather than on toxic

Example 14: Determining a Production Ratio

Your facility's only use of toluene is as a paint carrier for a painting operation. You painted 12,000 refrigerators in the current reporting year and 10,000 refrigerators during the preceding year. The production ratio for toluene in this case is 1.2 (12,000/10,000) because the number of refrigerators produced is the primary factor determining the quantity of toluene to be reported in Sections 8.1 through 8.7.

A facility manufactures inorganic pigments, including titanium dioxide. Hydrochloric acid is produced as a waste byproduct during the production process. An appropriate production ratio for hydrochloric acid is the annual titanium dioxide production, not the amount of byproduct generated. If the facility produced 20,000 pounds of titanium dioxide during the reporting year and 26,000 pounds in the preceding year, the production ratio would be 0.77 (20,000/26,000).

chemical or material usage. Indices based on toxic chemical or material usage may reflect the effect of source reduction activities rather than changes in business activity. Toxic chemical or material usage is therefore not a basis to be used for the production ratio or activity index where the toxic chemical is "otherwise-used" (i.e., non-incorporative activities such as extraction solvents, metal degreasers, etc.).

While several methods are available to the facility for determining this data element, the production ratio or activity index must be based on the variable that most directly affects the quantities of the toxic chemical recycled, used for energy recovery, treated, or disposed. Examples of methods available include:

- (1) Amount of toxic chemical manufactured in 1991 divided by the amount of toxic chemical manufactured in 1990; or
- (2) Amount of product produced in 1991 divided by the amount of product produced in 1990.

Example 15: Determining an Activity Index

Your facility manufactures organic dyes in a batch process. Different colors of dyes are manufactured, and between color changes, all equipment must be thoroughly cleaned with solvent containing glycol ethers to reduce color carryover. During the preceding year, the facility produced 2,000 pounds of yellow dye in January, 9,000 pounds of green dye for February through September, 2,000 pounds of red dye in November, and another 2,000 pounds of yellow dye in December. This adds up to a total of 15,000 pounds and four color changeovers. During the reporting year, the facility produced 10,000 pounds of green dye during the first half of the year and 10,000 pounds of red dye in the second half. If your facility uses glycol ethers in this cleaning process only, an activity index of 0.5 (based on two color changeovers for the reporting year divided by four changeovers for the preceding year) is more appropriate than a production ratio of 1.33 (based on 20,000 pounds of dye produced in the current year divided by 15,000 pounds in the preceding year). In this case, an activity index, rather than a production ratio, better reflects the factors that influence the amount of solvent recycled, used for energy recovery, treated, or disposed.

A facility that manufactures thermoplastic composite parts for aircraft uses acetone as a wipe solvent to clean molds. The solvent is stored in 55-gallon drums and is transferred to 1-gallon dispensers. The molds are cleaned on an as-needed basis that is not necessarily a function of the parts production rate. Operators cleaned 5,200 molds during the reporting year, but only cleaned 2,000 molds in the previous year. An activity index of 2.6 ($5,200/2,000$) represents the activities involving acetone usage in the facility. If the molds were cleaned after 1,000 parts were manufactured, a production ratio would equal the activity index and either could be used as the basis for the index.

A facility manufactures surgical instruments and cleans the metal parts with 1,1,1-trichloroethane in a vapor degreaser. The degreasing unit is operated in a batch mode and the metal parts are cleaned according to an irregular schedule. The activity index can be based upon the total time the metal parts are in the degreasing operation. If the degreasing unit operated 3,900 hours during the reporting year and 3,000 hours the prior year, the activity index is 1.3 ($3,900/3,000$).

A pharmaceutical plant uses hydrochloric acid to regenerate deionization units that supply deionized water to several operations in the facility. During the reporting year, the facility noted that the units were recharged once per week. Records for the prior year indicate that the units were recharged four times per week. Provided that the reduction in recharges per week is not part of a planned source reduction program, an index of 0.25 ($1/4$) represents the activities that were the primary influence on the amount of hydrochloric acid recycled, used for energy recovery, treated, or disposed.

Example 16: "NA" is Entered as the Production Ratio or Activity Index

Your facility began production of a microwidget during this reporting year. Perchloroethylene is used as a cleaning solvent for this operation and this is the only use of the toxic chemical in your facility. You would enter not applicable, "NA," in Section 8.9 because you have no basis of comparison in the prior year for the purposes of developing the activity index.

Example 17: Determining the Production Ratio Based on a Weighted Average

At many facilities, a reported toxic chemical is used in more than one production process. In these cases, a production ratio or activity index can be estimated by weighting the production ratio for each process based on the respective contribution of each process to the quantity of the reported toxic chemical recycled, used for energy recovery, treated, or disposed.

Your facility paints bicycles with paint containing toluene. Sixteen thousand bicycles were produced in the reporting year and 14,500 were produced in the prior year. There were no significant design modifications that changed the total surface area to be painted for each bike. The bicycle production ratio is 1.1 (16,000/14,500). You estimate 12,500 pounds of toluene treated, recycled, used for energy recovery, or disposed as a result of bicycle production. Your facility also uses toluene as a solvent in a glue that is used to make components and add-on equipment for the bicycles. Thirteen thousand components were manufactured in the reporting year as compared to 15,000 during the prior year. The production ratio for the components using toluene is 0.87 (13,000/15,000). You estimate 1,000 pounds of toluene treated, recycled, used for energy recovery, or disposed as a result of components production. A production ratio can be calculated by weighting each of the production ratios based on the relative contribution each has to the quantities of toluene treated, recycled, used for energy recovery, or disposed during the reporting year (13,500 pounds). The production ratio is calculated as follows:

$$\text{Production ratio} = (12,500/13,500 \times 1.1) + (1,000/13,500 \times 0.87) = 1.08$$

8.10 Did Your Facility Engage in any Source Reduction Activities for this Chemical during the Reporting Year?

If your facility engaged in any source reduction activity for the reported toxic chemical during the reporting year, report the activity that was implemented and the method used to identify the opportunity for the activity implemented. If your facility did not engage in any source reduction activity for the reported toxic chemical, enter not applicable, "NA," in Section 8.10.1 and answer Section 8.11.

Source reduction means any practice which:

- Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and
- Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

The term source reduction does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

Source reduction activities do not include recycling, treating, using for energy recovery, or disposing of a toxic chemical. Report in this section only the source reduction activities implemented to reduce or eliminate the quantities reported in Sections 8.1 through 8.7—the focus of the section is only those activities that are applied to reduce routine or reasonably anticipated releases and quantities of the reported toxic chemical recycled, treated, used for energy recovery, or disposed. Do not report in this section any activities taken to reduce or eliminate the quantities reported in Section 8.8.

Example 18: Source Reduction

A facility assembles and paints furniture. Both the glue used to assemble the furniture and the paints contain listed toxic chemicals. By examining the gluing process, the facility discovered that a new drum of glue is opened at the beginning of each shift, whether the old drum is empty or not. By adding a mechanism that prevents the drum from being changed before it is empty, the need for disposal of the glue is eliminated at the source. As a result, this activity is considered source reduction. The painting process at this facility generates a solvent waste which is collected and recovered. The recovered solvent is used to clean the painting equipment. The recycling activity does not reduce the amount of toxic chemical recycled, and therefore is not considered a source reduction activity.

Source Reduction Activities

You must enter in the first column of Section 8.10, "Source Reduction Activities," the appropriate code(s) indicating the type of actions taken to reduce the amount of the reported toxic chemical released (as reported in Section 8.1), used for energy recovery (as reported in Section 8.2), recycled (as reported in Section 8.4-8.5), or treated (as reported in Section 8.6-8.7). The list of codes below includes many, but not all, of the codes provided in the RCRA biennial report. Remember that source reduction activities include only those actions or techniques that reduce or eliminate the amounts of the toxic chemical reported in Section 8.1 through 8.7. Actions taken to recycle, treat, or dispose of the toxic chemical are not considered source reduction activities.

Source Reduction Activity Codes:**Good Operating Practices**

- W13 Improved maintenance scheduling, recordkeeping, or procedures
- W14 Changed production schedule to minimize equipment and feedstock changeovers
- W19 Other changes in operating practices

Inventory Control

- W21 Instituted procedures to ensure that materials do not stay in inventory beyond shelf-life
- W22 Began to test outdated material — continue to use if still effective
- W23 Eliminated shelf-life requirements for stable materials
- W24 Instituted better labelling procedures
- W25 Instituted clearinghouse to exchange materials that would otherwise be discarded
- W29 Other changes in inventory control

Spill and Leak Prevention

- W31 Improved storage or stacking procedures
- W32 Improved procedures for loading, unloading, and transfer operations
- W33 Installed overflow alarms or automatic shut-off valves
- W35 Installed vapor recovery systems
- W36 Implemented inspection or monitoring program of potential spill or leak sources
- W39 Other spill and leak prevention

Raw Material Modifications

- W41 Increased purity of raw materials
- W42 Substituted raw materials
- W49 Other raw material modifications

Process Modifications

- W51 Instituted recirculation within a process
- W52 Modified equipment, layout, or piping
- W53 Use of a different process catalyst
- W54 Instituted better controls on operating bulk containers to minimize discarding of empty containers
- W55 Changed from small volume containers to bulk containers to minimize discarding of empty containers
- W58 Other process modifications

Cleaning and Degreasing

- W59 Modified stripping/cleaning equipment
- W60 Changed to mechanical stripping/cleaning devices (from solvents or other materials)
- W61 Changed to aqueous cleaners (from solvents or other materials)

- W63 Modified containment procedures for cleaning units
- W64 Improved draining procedures
- W65 Redesigned parts racks to reduce dragout
- W66 Modified or installed rinse systems
- W67 Improved rinse equipment design
- W68 Improved rinse equipment operation
- W71 Other cleaning and degreasing modifications

Surface Preparation and Finishing

- W72 Modified spray systems or equipment
- W73 Substituted coating materials used
- W74 Improved application techniques
- W75 Changed from spray to other system
- W78 Other surface preparation and finishing modifications

Product Modifications

- W81 Changed product specifications
- W82 Modified design or composition of product
- W83 Modified packaging
- W89 Other product modifications

In columns a through c of Section 8.10, the "Methods to Identify Activity", you must enter one or more of the following code(s) that correspond to those internal and external method(s) or information sources you used to identify the possibility for a source reduction activity implementation at your facility. If more than three methods were used to identify the source reduction activity, enter only the three codes that contributed most to the decision to implement the activity.

Methods to Identify Activity

- T01 Internal pollution prevention opportunity audit(s)
- T02 External pollution prevention opportunity audit(s)
- T03 Materials balance audits
- T04 Participative team management
- T05 Employee recommendation (independent of a formal company program)
- T06 Employee recommendation (under a formal company program)
- T07 State government technical assistance program
- T08 Federal government technical assistance program
- T09 Trade association/industry technical assistance program
- T10 Vendor assistance
- T11 Other

8.11 Is Additional Information on Source Reduction, Recycling, or Pollution Control Activities Included with this Report?

Check "Yes" for this data element if you have attached to this report any additional optional information on source reduction, recycling, or pollution control activities you have implemented in the reporting year or in prior years for the reported toxic chemical. If you are not including additional information, check "No."

If you submit additional optional information, try to limit this information to one page that summarizes the source reduction, recycling, or pollution control activities. If there is a contact person at the facility, other than the technical or public contact provided in Part I, Section 4, the summary page should include that person's name and telephone number for individuals who wish to obtain further information about those activities. Also submit a copy of this additional information to the appropriate state agency as part of the Form R submittal to that agency.

TABLE II. SECTION 313 TOXIC CHEMICAL LIST FOR REPORTING YEAR 1991 (including Toxic Chemical Categories)

Specific toxic chemicals with CAS Number are listed in alphabetical order on this page. A list of the same chemicals in CAS Number order begins at the end of the alphabetical list of toxic chemicals. Covered toxic chemical categories follow.

Certain toxic chemicals listed in Table II have parenthetical "qualifiers." These qualifiers indicate that these toxic chemicals are subject to the section 313 reporting requirements if manufactured, processed, or otherwise used in a specific form. The following chemicals are reportable only if they are manufactured, processed, or otherwise used in the specific form(s) listed below:

<u>Chemical</u>	<u>CAS Number</u>	<u>Qualifier</u>
Aluminum (fume or dust)	7429-90-5	<u>Only</u> if it is in a fume or dust form.
Aluminum oxide (fibrous forms)	1344-28-1	<u>Only</u> if it is a fibrous form.
Ammonium nitrate (solution)	6484-52-2	<u>Only</u> if it is in a solution.
Ammonium sulfate (solution)	7783-20-2	<u>Only</u> if it is in a solution.
Asbestos (friable)	1332-21-4	<u>Only</u> if it is a friable form.
Isopropyl alcohol (manufacturing - strong acid process, no supplier notification)	67-63-0	<u>Only</u> if it is being manufactured by the strong acid process.
Phosphorus (yellow or white)	7723-14-0	<u>Only</u> if it is a yellow or white form.
Saccharin (manufacturing, no supplier notification).	81-07-2	<u>Only</u> if it is being manufactured.
Vanadium (fume or dust)	7440-62-2	<u>Only</u> if it is in a fume or dust form.
Zinc (fume or dust)	7440-66-6	<u>Only</u> if it is in a fume or dust form.

[Note: Chemicals may be added to or deleted from the list. The Emergency Planning and Community Right-to-Know Information Hotline, (800) 535-0202 or (703) 920-9877, will provide up-to-date information on the status of these changes. See Section B.4.b of the instructions for more information on the de minimis values listed below.]

a. Alphabetical Chemical List

			De Minimis		
CAS Number	Toxic Chemical Name	Concentration	CAS Number	Toxic Chemical Name	Concentration
			92-52-4	Biphenyl	1.0
			111-44-4	Bis(2-chloroethyl) ether	1.0
75-07-0	Acetaldehyde	0.1	542-88-1	Bis(chloromethyl) ether	
60-35-5	Acetamide	0.1	0.1108-60-1	Bis(2-chloro-1-methylethyl) ether	1.0
67-64-1	Acetone	1.0			
75-05-8	Acetonitrile	1.0	103-23-1	Bis(2-ethylhexyl) adipate	1.0
53-96-3	2-Acetylaminofluorene	0.1	353-59-3	Bromochlorodifluoromethane (Halon 1211)	1.0
107-02-8	Acrolein	1.0			
79-06-1	Acrylamide	0.1	75-25-2	Bromoform	1.0
79-10-7	Acrylic acid	1.0		(Tribromomethane)	
107-13-1	Acrylonitrile	0.1	74-83-9	Bromomethane	1.0
309-00-2	Aldrin	1.0		(Methyl bromide)	
	(1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a, 5,8,8a-hexahydro-(1.alpha., 4.alpha., 4a.beta., 5.alpha., 8.alpha., 8a.beta.)-)		75-63-8	Bromotrifluoromethane (Halon 1301)	1.0
			106-99-0	1,3-Butadiene	0.1
			141-32-2	Butyl acrylate	1.0
107-18-6	Allyl alcohol	1.0	71-36-3	n-Butyl alcohol	1.0
107-05-1	Allyl chloride	1.0	78-92-2	sec-Butyl alcohol	1.0
7429-90-5	Aluminum (fume or dust)	1.0	75-65-0	tert-Butyl alcohol	1.0
1344-28-1	Aluminum oxide (fibrous forms)	0.1	85-68-7	Butyl benzyl phthalate	1.0
			106-88-7	1,2-Butylene oxide	1.0
117-79-3	2-Aminoanthraquinone	0.1	123-72-8	Butyraldehyde	1.0
60-09-3	4-Aminoazobenzene	0.1	4680-78-8	C.I. Acid Green 3*	1.0
92-67-1	4-Aminobiphenyl	0.1	569-64-2	C.I. Basic Green 4*	1.0
82-28-0	1-Amino-2-methylantraquinone	0.1	989-38-8	C.I. Basic Red 1*	0.1
			1937-37-7	C.I. Direct Black 38*	0.1
			2602-46-2	C.I. Direct Blue 6*	0.1
7664-41-7	Ammonia	1.0	16071-86-6	C.I. Direct Brown 95*	0.1
6484-52-2	Ammonium nitrate (solution)	1.0	2832-40-8	C.I. Disperse Yellow 3*	1.0
7783-20-2	Ammonium sulfate (solution)	1.0	3761-53-3	C.I. Food Red 5*	0.1
62-53-3	Aniline	1.0	81-88-9	C.I. Food Red 15*	0.1
90-04-0	o-Anisidine	0.1	3118-97-6	C.I. Solvent Orange 7*	1.0
104-94-9	p-Anisidine	1.0	97-56-3	C.I. Solvent Yellow 3*	0.1
134-29-2	o-Anisidine hydrochloride	0.1	842-07-9	C.I. Solvent Yellow 14*	0.1
120-12-7	Anthracene	1.0	492-80-8	C.I. Solvent Yellow 34*	0.1
7440-36-0	Antimony	1.0		(Aurimine)	
7440-38-2	Arsenic	0.1	128-66-5	C.I. Vat Yellow 4*	1.0
1332-21-4	Asbestos (friable)	0.1	7440-43-9	Cadmium	0.1
7440-39-3	Barium	1.0	156-62-7	Calcium cyanamide	1.0
98-87-3	Benzal chloride	1.0	133-06-2	Captan	1.0
55-21-0	Benzamide	1.0		[1H-Isoindole-1,3(2H)-dione, 3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-]	
71-43-2	Benzene	0.1			
92-87-5	Benzidine	0.1	63-25-2	Carbaryl	1.0
98-07-7	Benzoic trichloride (Benzotrichloride)	0.1		(1-Naphthalenol, methylcarbamate)	
98-88-4	Benzoyl chloride	1.0			
94-36-0	Benzoyl peroxide	1.0	75-15-0	Carbon disulfide	1.0
100-44-7	Benzyl chloride	1.0	56-23-5	Carbon tetrachloride	0.1
7440-41-7	Beryllium	0.1	463-58-1	Carbonyl sulfide	1.0

CAS Number	Toxic Chemical Name	De Minimis Concentration	CAS Number	Toxic Chemical Name	De Minimis Concentration
120-80-9	Catechol	1.0	615-05-4	2,4-Diaminoanisole	0.1
133-90-4	Chloramben	1.0	39156-41-7	2,4-Diaminoanisole sulfate	0.1
	{Benzoic acid, 3-amino-2,5-dichloro-}		101-80-4	4,4'-Diaminodiphenyl ether	0.1
57-74-9	Chlordane	1.0	25376-45-8	Diaminotoluene (mixed isomers)	0.1
	{4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-}		95-80-7	2,4-Diaminotoluene	0.1
7782-50-5	Chlorine	1.0	334-88-3	Diazomethane	1.0
10049-04-4	Chlorine dioxide	1.0	132-64-9	Dibenzofuran	1.0
79-11-8	Chloroacetic acid	1.0	96-12-8	1,2-Dibromo-3-chloropropane (DBCP)	0.1
532-27-4	2-Chloroacetophenone	1.0	106-93-4	1,2-Dibromoethane (Ethylene dibromide)	0.1
108-90-7	Chlorobenzene	1.0	124-73-2	Dibromotetrafluoroethane (Halon 2402)	1.0
510-15-6	Chlorobenzilate	1.0	84-74-2	Dibutyl phthalate	1.0
	{Benzeneacetic acid, 4-chloro- α -(4-chlorophenyl)- α -hydroxy-ethyl ester}		25321-22-6	Dichlorobenzene (mixed isomers)	0.1
75-00-3	Chloroethane (Ethyl chloride)	1.0	95-50-1	1,2-Dichlorobenzene	1.0
67-66-3	Chloroform	0.1	541-73-1	1,3-Dichlorobenzene	1.0
74-87-3	Chloromethane (Methyl chloride)	1.0	106-46-7	1,4-Dichlorobenzene	0.1
107-30-2	Chloromethyl methyl ether	0.1	91-94-1	3,3'-Dichlorobenzidine	0.1
126-99-8	Chloroprene	1.0	75-27-4	Dichlorobromomethane	1.0
1897-45-6	Chlorothalonil (1,3-Benzenedicarbonitrile, 2,4,5,6-tetrachloro-}	1.0	75-71-8	Dichlorodifluoromethane (CFC-12)	1.0
			107-06-2	1,2-Dichloroethane (Ethylene dichloride)	0.1
7440-47-3	Chromium	0.1	540-59-0	1,2-Dichloroethylene	1.0
7440-48-4	Cobalt	1.0	75-09-2	Dichloromethane (Methylene chloride)	0.1
7440-50-8	Copper	1.0	120-83-2	2,4-Dichlorophenol	1.0
8001-58-9	Creosote	0.1	78-87-5	1,2-Dichloropropane	1.0
120-71-8	p-Cresidine	0.1	78-88-6	2,3-Dichloropropene	1.0
1319-77-3	Cresol (mixed isomers)	1.0	542-75-6	1,3-Dichloropropylene	0.1
108-39-4	m-Cresol	1.0	76-14-2	Dichlorotetrafluoroethane (CFC-114)	1.0
95-48-7	o-Cresol	1.0	62-73-7	Dichlorvos	1.0
106-44-5	p-Cresol	1.0		{Phosphoric acid, 2,2-dichloroethenyl dimethyl ester}	
98-82-8	Cumene	1.0	115-32-2	Dicofol (Benzenemethanol, 4-chloro- α -(4-chlorophenyl)- α -(trichloromethyl)-}	1.0
80-15-9	Cumene hydroperoxide	1.0			
135-20-6	Cupferron {Benzeneamine, N-hydroxy-N-nitroso, ammonium salt}	0.1	1464-53-5	Diepoxybutane	0.1
110-82-7	Cyclohexane	1.0	111-42-2	Diethanolamine	1.0
94-75-7	2,4-D {Acetic acid, (2,4-dichlorophenoxy)-}	1.0	177-81-7	Di-(2-ethylhexyl) phthalate (DEHP)	0.1
1163-19-5	Decabromodiphenyl oxide	1.0	84-66-2	Diethyl phthalate	1.0
2303-16-4	Diallate {Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester}	1.0	64-67-5	Diethyl sulfate	0.1
			119-90-4	3,3'-Dimethoxybenzidine	0.1
			60-11-7	4-Dimethylaminoazobenzene	0.1

*C.I. means "Color Index"

Table II II-3

CAS Number	Toxic Chemical Name	De Minimis		CAS Number	Toxic Chemical Name	De Minimis	
		Concentration				Concentration	
119-93-7	3,3'-Dimethylbenzidine {o-Tolidine}	0.1		7647-01-0	Hydrochloric acid	1.0	
79-44-7	Dimethylcarbaryl chloride	0.1		74-90-8	Hydrogen cyanide	1.0	
57-14-7	1,1-Dimethyl hydrazine	0.1		7664-39-3	Hydrogen fluoride	1.0	
105-67-9	2,4-Dimethylphenol	1.0		123-31-9	Hydroquinone	1.0	
131-11-3	Dimethyl phthalate	1.0		78-84-2	Isobutyraldehyde	1.0	
77-78-1	Dimethyl sulfate	0.1		67-63-0	Isopropyl alcohol	0.1	
99-65-0	m-Dinitrobenzene	1.0			(manufacturing-strong acid process, no supplier notification)		
528-29-0	o-Dinitrobenzene	1.0		80-05-7	4,4'-Isopropylidenediphenol	1.0	
100-25-4	p-Dinitrobenzene	1.0		120-58-1	Isosafrole	1.0	
534-52-1	4,6-Dinitro-o-cresol	1.0		7439-92-1	Lead	0.1	
51-28-5	2,4-Dinitrophenol	1.0		58-89-9	Lindane	0.1	
121-14-2	2,4-Dinitrotoluene	1.0			[Cyclohexane,1,2,3,4,5,6- hexachloro-(1.alpha.,2.alpha., 3.beta.,4.alpha.,5.alpha.,6.beta.)-]		
606-20-2	2,6-Dinitrotoluene	1.0		108-31-6	Maleic anhydride	1.0	
25321-14-6	Dinitrotoluene (mixed isomers)	1.0		12427-38-2	Maneb	1.0	
117-84-0	n-Dioctyl phthalate	1.0			[Carbamodithioic acid, 1,2- ethanediylbis-,manganese complex]		
123-91-1	1,4-Dioxane	0.1		7439-96-5	Manganese	1.0	
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene)	0.1		7439-97-6	Mercury	1.0	
106-89-8	Epichlorohydrin	0.1		67-56-1	Methanol	1.0	
110-80-5	2-Ethoxyethanol	1.0		72-43-5	Methoxychlor	1.0	
140-88-5	Ethyl acrylate	0.1			{Benzene, 1,1'-(2,2,2- trichloroethylidene)bis [4-methoxy-]}		
100-41-4	Ethylbenzene	1.0		109-86-4	2-Methoxyethanol	1.0	
541-41-3	Ethyl chloroformate	1.0		96-33-3	Methyl acrylate	1.0	
74-85-1	Ethylene	1.0		1634-04-4	Methyl tert-butyl ether	1.0	
107-21-1	Ethylene glycol	1.0		101-14-4	4,4'-Methylenebis (2- chloroaniline)	0.1	
151-56-4	Ethyleneimine {Aziridine}	0.1			{MBOCA}		
75-21-8	Ethylene oxide	0.1		101-61-1	4,4'-Methylenebis (N,N-dimethyl)	0.1	
96-45-7	Ethylene thiourea	0.1			benzenamine		
2164-17-2	Fluometuron {Urea, N,N-dimethyl-N'- [3-(trifluoromethyl)phenyl]-}	1.0		101-68-8	Methylenebis (phenylisocyanate) [MBI]	1.0	
50-00-0	Formaldehyde	0.1		74-95-3	Methylene bromide	1.0	
76-13-1	Freon 113 {Ethane, 1,1,2-trichloro-1,2,2- trifluoro-}	1.0		101-77-9	4,4'-Methylenedianiline	0.1	
76-44-8	Heptachlor {1,4,5,6,7,8,8-Heptachloro- 3a,4,7,7a-tetrahydro- 4,7-methano-1H-indene}	1.0		78-93-3	Methyl ethyl ketone	1.0	
118-74-1	Hexachlorobenzene	0.1		60-34-4	Methyl hydrazine	1.0	
87-68-3	Hexachloro-1,3-butadiene	1.0		74-88-4	Methyl iodide	0.1	
77-47-4	Hexachlorocyclopentadiene	1.0		108-10-1	Methyl isobutyl ketone	1.0	
67-72-1	Hexachloroethane	1.0		624-83-9	Methyl isocyanate	1.0	
1335-87-1	Hexachloronaphthalene	1.0		80-62-6	Methyl methacrylate	1.0	
680-31-9	Hexamethylphosphoramide	0.1		90-94-8	Michler's ketone	0.1	
302-01-2	Hydrazine	0.1		1313-27-5	Molybdenum trioxide	1.0	
10034-93-2	Hydrazine sulfate	0.1		76-15-3	(Mono)chloropentafluoroethane	1.0	
					{CFC-115}		

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*C.I. means "Color Index"

De Minimis			De Minimis		
CAS Number	Toxic Chemical Name	Concentration	CAS Number	Toxic Chemical Name	Concentration
505-60-2	Mustard gas {Ethane, 1,1'-thiobis[2-chloro-]}	0.1	1336-36-3	Polychlorinated biphenyls {PCBs}	0.1
91-20-3	Naphthalene	1.0	1120-71-4	Propane sultone	0.1
134-32-7	alpha-Naphthylamine	0.1	57-57-8	beta-Propiolactone	0.1
91-59-8	beta-Naphthylamine	0.1	123-38-6	Propionaldehyde	1.0
7440-02-0	Nickel	0.1	114-26-1	Propoxur {Phenol, 2-(1-methylethoxy)-, methylcarbamate}	1.0
7697-37-2	Nitric acid	1.0			
139-13-9	Nitrilotriacetic acid	0.1	115-07-1	Propylene {Propene}	1.0
99-59-2	5-Nitro-o-anisidine	0.1	75-55-8	Propyleneimine	0.1
98-95-3	Nitrobenzene	1.0	75-56-9	Propylene oxide	0.1
92-93-3	4-Nitrobiphenyl	0.1	110-86-1	Pyridine	1.0
1836-75-5	Nitrofen {Benzene, 2,4-dichloro-1- (4-nitrophenoxy)-}	0.1	91-22-5	Quinoline	1.0
51-75-2	Nitrogen mustard {2-Chloro-N-(2-chloroethyl)-N- methylethanamine}	0.1	106-51-4	Quinone	1.0
			82-68-8	Quintozone	1.0
55-63-0	Nitroglycerin	1.0	81-07-2	{Pentachloronitrobenzene}	
88-75-5	2-Nitrophenol	1.0		Saccharin (manufacturing, no supplier notification)	0.1
100-02-7	4-Nitrophenol	1.0		{1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide}	
79-46-9	2-Nitropropane	0.1	94-59-7	Safrole	0.1
156-10-5	p-Nitrosodiphenylamine	0.1	7782-49-2	Selenium	1.0
121-69-7	N,N-Dimethylaniline	1.0	7440-22-4	Silver	1.0
924-16-3	N-Nitrosodi-n-butylamine	0.1	100-42-5	Styrene	0.1
55-18-5	N-Nitrosodiethylamine	0.1	96-09-3	Styrene oxide	0.1
62-75-9	N-Nitrosodimethylamine	0.1	7664-93-9	Sulfuric acid	1.0
86-30-6	N-Nitrosodiphenylamine	1.0	79-34-5	1,1,2,2-Tetrachloroethane	0.1
621-64-7	N-Nitrosodi-n-propylamine	0.1	127-18-4	Tetrachloroethylene {Perchloroethylene}	0.1
4549-40-0	N-Nitrosomethylvinylamine	0.1			
59-89-2	N-Nitrosomorpholine	0.1	961-11-5	Tetrachlorvinphos {Phosphoric acid, 2-chloro-1- (2,4,5-trichlorophenyl) ethenyl dimethyl ester}	1.0
759-73-9	N-Nitroso-N-ethylurea	0.1			
684-93-5	N-Nitroso-N-methylurea	0.1	7440-28-0	Thallium	1.0
16543-55-8	N-Nitrosomorpholine	0.1	62-55-5	Thioacetamide	0.1
100-75-4	N-Nitrosopiperidine	0.1	139-65-1	4,4'-Thiodianiline	0.1
2234-13-1	Octachloronaphthalene	1.0	62-56-6	Thiourea	0.1
20816-12-0	Osmium tetroxide	1.0	1314-20-1	Thorium dioxide	1.0
56-38-2	Parathion {Phosphorothioic acid, O, O- diethyl-O-(4-nitrophenyl) ester}	1.0	7550-45-0	Titanium tetrachloride	1.0
87-86-5	Pentachlorophenol {PCP}	1.0	108-88-3	Toluene	1.0
79-21-0	Peracetic acid	1.0	584-84-9	Toluene-2,4-diisocyanate	0.1
108-95-2	Phenol	1.0	91-08-7	Toluene-2,6-diisocyanate	0.1
106-50-3	p-Phenylenediamine	1.0	26471-62-5	Toluenediisocyanate (mixed isomers)	0.1
90-43-7	2-Phenylphenol	1.0			
75-44-5	Phosgene	1.0	95-53-4	o-Toluidine	0.1
7664-38-2	Phosphoric acid	1.0	636-21-5	o-Toluidine hydrochloride	0.1
7723-14-0	Phosphorus (yellow or white)	1.0	8001-35-2	Toxaphene	0.1
85-44-9	Phthalic anhydride	1.0			
88-89-1	Picric acid	1.0			

*C.I. means "Color Index"

Table II II-5

CAS Number	Toxic Chemical Name	De Minimis Concentration	CAS Number	Toxic Chemical Name	De Minimis Concentration
68-76-8	Triaziquone	0.1	126-72-7	Tris (2,3-dibromopropyl) phosphate	0.1
	[2,5-Cyclohexadiene-1,4-dione, 2,3,5-tris(1-aziridinyl)-]		51-79-6	Urethane (Ethyl carbamate)	0.1
52-68-6	Trichlorfon	1.0	7440-62-2	Vanadium (fume or dust)	1.0
	{Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-, dimethyl ester}		108-05-4	Vinyl acetate	1.0
120-82-1	1,2,4-Trichlorobenzene	1.0	593-60-2	Vinyl bromide	0.1
71-55-6	1,1,1-Trichloroethane	1.0	75-01-4	Vinyl chloride	0.1
	{Methyl chloroform}		75-35-4	Vinylidene chloride	1.0
79-00-5	1,1,2-Trichloroethane	1.0	1330-20-7	Xylene (mixed isomers)	1.0
79-01-6	Trichloroethylene	1.0	108-38-3	m-Xylene	1.0
75-69-4	Trichlorofluoromethane (CFC-11)	1.0	95-47-6	o-Xylene	1.0
95-95-4	2,4,5-Trichlorophenol	1.0	106-42-3	p-Xylene	1.0
88-06-2	2,4,6-Trichlorophenol	0.1	87-62-7	2,6-Xylidine	1.0
1582-09-8	Trifluralin	1.0	7440-66-6	Zinc (fume or dust)	1.0
	{Benzenamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-1}		12122-67-7	Zineb	1.0
95-63-6	1,2,4-Trimethylbenzene	1.0		{Carbamodithioic acid, 1,2-ethanediyldis-, zinc complex}	

b. List By CAS Number

			De Minimis	
CAS Number	Toxic Chemical Name	Concentration	CAS Number	Toxic Chemical Name Concentration
			67-64-1	Acetone 1.0
			67-66-3	Chloroform 0.1
50-00-0	Formaldehyde	0.1	67-72-1	Hexachloroethane 1.0
51-28-5	2,4-Dinitrophenol	1.0	68-76-8	Triaziquone 0.1
51-75-2	Nitrogen mustard	0.1		{2,5-Cyclohexadiene-1,4-dione, 2,3,5-tris(1-aziridinyl)-}
	{2-Chloro-N-(2-chloroethyl)-N-methylethanamine}		71-36-3	n-Butyl alcohol 1.0
51-79-6	Urethane	0.1	71-43-2	Benzene 0.1
	{Ethyl carbamate}		71-55-6	1,1,1-Trichloroethane 1.0
52-68-6	Trichlorfon	1.0		{Methyl chloroform}
	{Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-, dimethyl ester}		72-43-5	Methoxychlor 1.0
53-96-3	2-Acetylaminofluorene	0.1		{Benzene, 1,1'-(2,2,2-trichloroethylidene)bis [4-methoxy-]}
55-18-5	N-Nitrosodiethylamine	0.1	74-83-9	Bromomethane 1.0
55-21-0	Benzamide	1.0		{Methyl bromide}
55-63-0	Nitroglycerin	1.0	74-85-1	Ethylene 1.0
56-23-5	Carbon tetrachloride	0.1	74-87-3	Chloromethane 1.0
56-38-2	Parathion	1.0		{Methyl chloride}
	{Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl)ester}		74-88-4	Methyl iodide 0.1
57-14-7	1,1-Dimethyl hydrazine	0.1	74-90-8	Hydrogen cyanide 1.0
57-57-8	beta-Propiolactone	0.1	74-95-3	Methylene bromide 1.0
57-74-9	Chlordane	1.0	75-00-3	Chloroethane 1.0
	{4,7-Methanoindan, 1,2,4,5,6,7, 8,8-octachloro-2,3,3a,4,7,7a-hexahydro-}		75-01-4	Vinyl chloride 0.1
			75-05-8	Acetonitrile 1.0
58-89-9	Lindane	0.1	75-07-0	Acetaldehyde 0.1
	{Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1.alpha., 2.alpha., 3.beta., 4.alpha., 5.alpha., 6.beta.)-}		75-09-2	Dichloromethane 0.1
				{Methylene chloride}
59-89-2	N-Nitrosomorpholine	0.1	75-15-0	Carbon disulfide 1.0
60-09-3	4-Aminoazobenzene	0.1	75-21-8	Ethylene oxide 0.1
60-11-7	4-Dimethylaminoazobenzene	0.1	75-25-2	Bromoform 1.0
60-34-4	Methyl hydrazine	1.0		{Tribromomethane}
60-35-5	Acetamide	0.1	75-27-4	Dichlorobromomethane 1.0
62-53-3	Aniline	1.0	75-35-4	Vinylidene chloride 1.0
62-55-5	Thioacetamide	0.1	75-44-5	Phosgene 1.0
62-56-6	Thiourea	0.1	75-55-8	Propyleneimine 0.1
62-73-7	Dichlorvos	1.0	75-56-9	Propylene oxide 0.1
	{Phosphoric acid, 2,2-dichloroethenyl dimethyl ester}		75-63-8	Bromotrifluoromethane 1.0
62-75-9	N-Nitrosodimethylamine	0.1	75-65-0	{Halon 1301}
63-25-2	Carbaryl	1.0	75-69-4	tert-Butyl alcohol 1.0
	{1-Naphthalenol, methylcarbamate}			Trichlorofluoromethane 1.0
64-67-5	Diethyl sulfate	0.1	75-71-8	{CFC-11}
67-56-1	Methanol	1.0		Dichlorodifluoromethane 1.0
67-63-0	Isopropyl alcohol	0.1	76-14-2	{CFC-12}
	{manufacturing-strong acid process, no supplier notification}			Dichlorotetrafluoroethane 1.0
			76-15-3	{CFC-114}
				Monochloropentafluoroethane 1.0
				{CFC-115}

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Table II II-7

De Minimis			De Minimis		
CAS Number	Toxic Chemical Name	Concentration	CAS Number	Toxic Chemical Name	Concentration
76-44-8	Heptachlor (1,4,5,6,7,8,8-Heptachloro- 3a,4,7,7a-tetrahydro- 4,7-methano-1H-indene)	1.0	91-08-7	Toluene-2,6- Diisocyanate	0.1
77-13-1	Freon 113 (Ethane, 1,1,2-trichloro-1,2,2- trifluoro-)	1.0	91-20-3	Naphthalene	1.0
77-47-4	Hexachlorocyclopentadiene	1.0	91-22-5	Quinoline	1.0
77-78-1	Dimethyl sulfate	0.1	91-59-8	beta-Naphthylamine	0.1
78-84-2	Isobutyraldehyde	1.0	91-94-1	3,3'-Dichlorobenzidine	0.1
78-87-5	1,2-Dichloropropane	1.0	92-52-4	Biphenyl	1.0
78-88-6	2,3-Dichloropropene	1.0	92-67-1	4-Aminobiphenyl	0.1
78-92-2	sec-Butyl alcohol	1.0	92-87-5	Benzidine	0.1
78-93-3	Methyl ethyl ketone	1.0	92-93-3	4-Nitrobiphenyl	0.1
79-00-5	1,1,2-Trichloroethane	1.0	94-36-0	Benzoyl Peroxide	1.0
79-01-6	Trichloroethylene	1.0	94-59-7	Safrole	0.1
79-06-1	Acrylamide	0.1	94-75-7	2,4-D {Acetic acid, (2,4 dichlorophenoxy)-}	1.0
79-10-7	Acrylic acid	1.0	95-47-6	o-Xylene	1.0
79-11-8	Chloroacetic acid	1.0	95-48-7	o-Cresol	1.0
79-21-0	Peracetic acid	1.0	95-50-1	1,2 Dichlorobenzene	1.0
79-34-5	1,1,2,2-Tetrachloroethane	0.1	95-53-4	o-Toluidine	0.1
79-44-7	Dimethylcarbaryl chloride	0.1	95-63-6	1,2,4 Trimethylbenzene	1.0
79-46-9	2-Nitropropane	0.1	95-80-7	2,4-Diaminotoluene	0.1
80-05-7	4,4'-Isopropylidenediphenol	1.0	95-95-4	2,4,5-Trichlorophenol	1.0
80-15-9	Cumene hydroperoxide	1.0	96-09-3	Styrene oxide	0.1
80-62-6	Methyl methacrylate	1.0	96-12-8	1,2-Dibromo-3-chloropropane (DBCP)	0.1
81-07-2	Saccharin (manufacturing, no supplier notification) (1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide)	0.1	96-33-3	Methyl acrylate	1.0
81-88-9	C.I. Food Red 15*	0.1	96-45-7	Ethylene thiourea	0.1
82-28-0	1-Amino-2-methyl- anthraquinone	0.1	97-56-3	C.I. Solvent Yellow 3*	0.1
82-68-8	Quintozene (Pentachloronitrobenzene)	1.0	98-07-7	Benzoic trichloride (Benzotrichloride)	0.1
84-66-2	Diethyl phthalate	1.0	98-82-8	Cumene	1.0
84-74-2	Dibutyl phthalate	1.0	98-87-3	Benzal chloride	1.0
85-44-9	Phthalic anhydride	1.0	98-88-4	Benzoyl chloride	1.0
85-68-7	Butyl benzyl phthalate	1.0	98-95-3	Nitrobenzene	1.0
86-30-6	N-Nitrosodiphenylamine	1.0	99-59-2	5-Nitro-o-anisidine	0.1
87-62-7	2,6-Xylidine	1.0	99-65-0	m-Dinitrobenzene	1.0
87-68-3	Hexachloro-1,3-butadiene	1.0	100-02-7	4-Nitrophenol	1.0
87-86-5	Pentachlorophenol (PCP)	1.0	100-25-4	p-Dinitrobenzene	1.0
88-06-2	2,4,6-Trichlorophenol	0.1	100-41-4	Ethylbenzene	1.0
88-75-5	2-Nitrophenol	1.0	100-42-5	Styrene	0.1
88-89-1	Picric acid	1.0	100-44-7	Benzyl chloride	1.0
90-04-0	o-Anisidine	0.1	100-75-4	N-Nitrosopiperidine	0.1
90-43-7	2-Phenylphenol	1.0	101-14-4	4,4'-Methylenebis (2- chloroaniline) (MBOCA)	0.1
90-94-8	Michler's Ketone	0.1	101-61-1	4,4'-Methylenebis(N,N- dimethyl) benzenamine	0.1
			101-68-8	Methylenebis (phenylisocyanate) (MBI)	1.0
			101-77-9	4,4'-Methylenedianiline	0.1

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*C.I. means "Color Index"

De Minimis			De Minimis		
CAS Number	Toxic Chemical Name	Concentration	CAS Number	Toxic Chemical Name	Concentration
101-80-4	4,4'-Diaminodiphenyl ether	0.1	117-84-0	n-Dioctyl phthalate	1.0
103-23-1	Bis(2-ethylhexyl) adipate	1.0	118-74-1	Hexachlorobenzene	0.1
104-94-9	p-Anisidine	1.0	119-90-4	3,3'-Dimethoxybenzidine	0.1
105-67-9	2,4-Dimethylphenol	1.0	119-93-7	3,3'-Dimethylbenzidine	0.1
106-42-3	p-Xylene	1.0		{o-Tolidine}	
106-44-5	p-Cresol	1.0	120-12-7	Anthracene	1.0
106-46-7	1,4-Dichlorobenzene	0.1	120-58-1	Isosafrole	1.0
106-50-3	p-Phenylenediamine	1.0	120-71-8	p-Cresidine	0.1
106-51-4	Quinone	1.0	120-80-9	Catechol	1.0
106-88-7	1,2-Butylene oxide	1.0	120-82-1	1,2,4-Trichlorobenzene	1.0
106-89-8	Epichlorohydrin	0.1	120-83-2	2,4-Dichlorophenol	1.0
106-93-4	1,2-Dibromoethane	0.1	121-14-2	2,4-Dinitrotoluene	1.0
	{Ethylene dibromide}		121-69-7	N,N-Dimethylaniline	1.0
106-99-0	1,3-Butadiene	0.1	122-66-7	1,2-Diphenylhydrazine	0.1
107-02-8	Acrolein	1.0		{Hydrazobenzene}	
107-05-1	Allyl chloride	1.0	123-31-9	Hydroquinone	1.0
107-06-2	1,2-Dichloroethane	0.1	123-38-6	Propionaldehyde	1.0
	{Ethylene dichloride}		123-72-8	Butyraldehyde	1.0
107-13-1	Acrylonitrile	0.1	123-91-1	1,4-Dioxane	0.1
107-18-6	Allyl alcohol	1.0	124-73-2	Dibromotetrafluoroethane	1.0
107-21-1	Ethylene glycol	1.0		{Halon 2402}	
107-30-2	Chloromethyl methyl ether	0.1	126-72-7	Tris(2,3-dibromopropyl)	0.1
108-05-4	Vinyl acetate	1.0		phosphate	
108-10-1	Methyl isobutyl ketone	1.0	126-99-8	Chloroprene	1.0
108-31-6	Maleic anhydride	1.0	127-18-4	Tetrachloroethylene	0.1
108-38-3	m-Xylene	1.0		{Perchloroethylene}	
108-39-4	m-Cresol	1.0	128-66-5	C.I. Vat Yellow 4*	1.0
108-60-1	Bis(2-chloro-1-methylethyl)	1.0	131-11-3	Dimethyl phthalate	1.0
	ether		132-64-9	Dibenzofuran	1.0
108-88-3	Toluene	1.0	133-06-2	Captan	1.0
108-90-7	Chlorobenzene	1.0		{1H-Isoindole-1,3(2H)-dione,	
108-95-2	Phenol	1.0		3a,4,7,7a-tetrahydro-	
109-86-4	2-Methoxyethanol	1.0		2-[(trichloromethyl)thio]-}	
110-80-5	2-Ethoxyethanol	1.0	133-90-4	Chloramben	1.0
110-82-7	Cyclohexane	1.0		{Benzoic acid, 3-amino-	
110-86-1	Pyridine	1.0		2,5-dichloro-}	
111-42-2	Diethanolamine	1.0	134-29-2	o-Anisidine hydrochloride	0.1
111-44-4	Bis(2-chloroethyl) ether	1.0	134-32-7	alpha-Naphthylamine	0.1
114-26-1	Propoxur	1.0	135-20-6	Cupferron	0.1
	{Phenol, 2-(1-methylethoxy)-,			{Benzeneamine, N-hydroxy-	
	methylcarbamate}			N-nitroso, ammonium salt}	
115-07-1	Propylene (Propene)	1.0	139-13-9	Nitrilotriacetic acid	0.1
115-32-2	Dicofol	1.0	139-65-1	4,4'-Thiodianiline	0.1
	{Benzenemethanol, 4-chloro-		140-88-5	Ethyl acrylate	0.1
	alpha-(4-chlorophenyl)-		141-32-2	Butyl acrylate	1.0
	alpha-(trichloromethyl)-}		151-56-4	Ethyleneimine (Aziridine)	0.1
117-79-3	2-Aminoanthraquinone	0.1	156-10-5	p-Nitrosodiphenylamine	0.1
117-81-7	Di(2-ethylhexyl) phthalate	0.1	156-62-7	Calcium cyanamide	1.0
	{DEHP}		302-01-2	Hydrazine	0.1

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Table II II-9

CAS Number	Toxic Chemical Name	De Minimis Concentration	CAS Number	Toxic Chemical Name	De Minimis Concentration
309-00-2	Aldrin {1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a, 5,8,8a-hexahydro-(1.alpha., 4.alpha.,4a.beta.,5.alpha., 8.alpha.,8a.beta.)-}	1.0	1332-21-4	Asbestos (friable)	0.1
			1335-87-1	Hexachloronaphthalene	1.0
			1336-36-3	Polychlorinated biphenyls {PCBs}	0.1
			1344-28-1	Aluminum oxide (fibrous forms)	0.1
334-88-3	Diazomethane	1.0	1464-53-5	Diepoxybutane	0.1
353-59-3	Bromochlorodifluoromethane {Halon 1211}	1.0	1582-09-8	Trifluralin {Benzenamine, 2,6-dinitro-N,N- dipropyl-4-(trifluoromethyl)-}	1.0
463-58-1	Carbonyl sulfide	1.0		Methyl tert-butyl ether	1.0
492-80-8	C.I. Solvent Yellow 34* {Aurimine}	0.1	1634-04-4	Nitrofen	0.1
505-60-2	Mustard gas {Ethane,1,1'-thiobis[2-chloro-]}	0.1	1836-75-5	{Benzene, 2,4-dichloro-1- (4-nitrophenoxy)-}	
510-15-6	Chlorobenzilate {Benzeneacetic acid,4-chloro- .alpha.-(4-chlorophenyl)- .alpha.-hydroxy-,ethyl ester}	1.0	1897-45-6	Chlorothalonil {1,3-Benzenedicarbonitrile, 2,4,5,6-tetrachloro-}	1.0
528-29-0	o-Dinitrobenzene	1.0	1937-37-7	C.I. Direct Black 38*	0.1
532-27-4	2-Chloroacetophenone	1.0	2164-17-2	Fluometuron {Urea, N,N-dimethyl-N'- [3-(trifluoromethyl)phenyl]-}	1.0
534-52-1	4,6-Dinitro-o-cresol	1.0		Octachloronaphthalene	1.0
540-59-0	1,2-Dichloroethylene	1.0	2234-13-1	Diallate	1.0
541-41-3	Ethyl chloroformate	1.0	2303-16-4	{Carbamothioic acid, bis (1-methylethyl)-, S-(2,3- dichloro-2-propenyl) ester}	
541-73-1	1,3-Dichlorobenzene	1.0		C.I. Direct Blue 6*	0.1
542-75-6	1,3-Dichloropropylene	0.1	2602-46-2	C.I. Disperse Yellow 3*	1.0
542-88-1	Bis(chloromethyl) ether	0.1	2832-40-8	C.I. Solvent Orange 7*	1.0
569-64-2	C.I. Basic Green 4*	1.0	3118-97-6	C.I. Food Red 5*	0.1
584-84-9	Toluene-2,4-diisocyanate	0.1	3761-53-3	N-Nitrosomethylvinylamine	0.1
593-60-2	Vinyl bromide	0.1	4549-40-0	C.I. Acid Green 3*	1.0
606-20-2	2,6-Dinitrotoluene	1.0	4680-78-8	Ammonium nitrate (solution)	1.0
615-05-4	2,4-Diaminoanisole	0.1	6484-52-2	Aluminum (fume or dust)	1.0
621-64-7	N-Nitrosodi-n-propylamine	0.1	7429-90-5	Lead	0.1
624-83-9	Methyl isocyanate	1.0	7439-92-1	Manganese	1.0
636-21-5	o-Toluidine hydrochloride	0.1	7439-96-5	Mercury	1.0
680-31-9	Hexamethylphosphoramide	0.1	7439-97-6	Nickel	0.1
684-93-5	N-Nitroso-N-methylurea	0.1	7440-02-0	Silver	1.0
759-73-9	N-Nitroso-N-ethylurea	0.1	7440-22-4	Thallium	1.0
842-07-9	C.I. Solvent Yellow 14*	0.1	7440-28-0	Antimony	1.0
924-16-3	N-Nitrosodi-n-butylamine	0.1	7440-36-0	Arsenic	0.1
961-11-5	Tetrachlorvinphos {Phosphoric acid, 2-chloro-1- (2,4,5-trichlorophenyl)ethenyl dimethyl ester}	1.0	7440-38-2	Barium	1.0
			7440-39-3	Beryllium	0.1
989-38-8	C.I. Basic Red 1*	0.1	7440-41-7	Cadmium	0.1
1120-71-4	Propane sultone	0.1	7440-43-9	Chromium	0.1
1163-19-5	Decabromodiphenyl oxide	1.0	7440-47-3	Cobalt	1.0
1313-27-5	Molybdenum trioxide	1.0	7440-48-4	Copper	1.0
1314-20-1	Thorium dioxide	1.0	7440-50-8	Vanadium (fume or dust)	1.0
1319-77-3	Cresol (mixed isomers)	1.0	7440-62-2	Zinc (fume or dust)	1.0
1330-20-7	Xylene (mixed isomers)	1.0	7440-66-6		

CAS Number	Toxic Chemical Name	De Minimis Concentration
7550-45-0	Titanium tetrachloride	1.0
7647-01-0	Hydrochloric acid	1.0
7664-38-2	Phosphoric acid	1.0
7664-39-3	Hydrogen fluoride	1.0
7664-41-7	Ammonia	1.0
7664-93-9	Sulfuric acid	1.0
7697-37-2	Nitric acid	1.0
7723-14-0	Phosphorus (yellow or white)	1.0
7782-49-2	Selenium	1.0
7782-50-5	Chlorine	1.0
7783-20-2	Ammonium sulfate (solution)	1.0
8001-35-2	Toxaphene	0.1
8001-58-9	Creosote	0.1
10034-93-2	Hydrazine sulfate	0.1
10049-04-4	Chlorine dioxide	1.0
12122-67-7	Zineb	1.0
	(Carbamodithioic acid, 1,2-ethanedithiolbis-, zinc complex)	
12427-38-2	Maneb	1.0
	(Carbamodithioic acid, 1,2-ethanedithiolbis-, manganese complex)	
16071-86-6	C.I. Direct Brown 95*	0.1
16543-55-8	N-Nitrosomornicotine	0.1
20816-12-0	Osmium tetroxide	1.0
25321-14-6	Dinitrotoluene (mixed isomers)	1.0
25321-22-6	Dichlorobenzene (mixed isomers)	0.1
25376-45-8	Diaminotoluene (mixed isomers)	0.1
26471-62-5	Toluenediisocyanate (mixed isomers)	0.1
39156-41-7	2,4-Diaminoanisole sulfate	0.1

SECTION 313 TOXIC CHEMICAL CATEGORIES

Section 313 requires reporting on the toxic chemical categories listed below, in addition to the specific toxic chemicals listed above.

The metal compounds listed below, unless otherwise specified, are defined as including any unique chemical substance that contains the named metal (i.e., antimony, copper, etc.) as part of that chemical's structure.

Toxic chemical categories are subject to the 1 percent de minimis concentration unless the substance involved meets the definition of an OSHA carcinogen, which are subject to the 0.1 percent de minimis concentration. The de minimis concentration for each compound is provided in parenthesis.

Antimony Compounds - (Category Code N010) -
Includes any unique chemical substance that contains antimony as part of that chemical's infrastructure. (1.0)

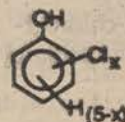
Arsenic Compounds - (Category Code N020) -
Includes any unique chemical substance that contains arsenic as part of that chemical's infrastructure. (Inorganic compounds: 0.1; organic compounds: 1.0)

Barium Compounds - (Category Code N040) -
Includes any unique chemical substance that contains barium as part of that chemical's infrastructure. (1.0)

Beryllium Compounds - (Category Code N050) -
Includes any unique chemical substance that contains beryllium as part of that chemical's infrastructure. (Inorganic compounds: 0.1; organic compounds: 1.0)

Cadmium Compounds - (Category Code N078) -
Includes any unique chemical substance that contains cadmium as part of that chemical's infrastructure. (Inorganic compounds: 0.1; organic compounds: 1.0)

Chlorophenols - (Category Code N084) - (0.1)



where $x = 1$ to 5

*C.I. means "Color Index"

Chromium Compounds - (Category Code N090) - Includes any unique chemical substance that contains chromium as part of that chemical's infrastructure. (chromium VI compounds: 0.1; chromium III compounds: 1.0)

Cobalt Compounds - (Category Code N096) - Includes any unique chemical substance that contains cobalt as part of that chemical's infrastructure. (1.0)

Copper Compounds - (Category Code N100) - Includes any unique chemical substance that contains copper as part of that chemical's infrastructure. (1.0)

This category does not include:

Chemical	CAS Number
C.I. Pigment Blue 15	147-14-8
C.I. Pigment Green 7	1328-53-6
C.I. Pigment Green 36	14302-13-7

Cyanide Compounds - (Category Code N106) - X^+CN^- where $X = H^+$ or any other group where a formal dissociation may occur. For example, KCN or $Ca(CN)_2$. (1.0)

Glycol Ethers - (Category Code N230) - Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol. (1.0)

$R-(OCH_2CH_2)_n-OR'$
Where $n = 1, 2, \text{ or } 3$

$R =$ alkyl or aryl groups

$R' = R, H,$ or groups which, when removed, yield glycol ethers with the structure:

$R-(OCH_2CH_2)_n-OH$

Polymers are excluded from this category.

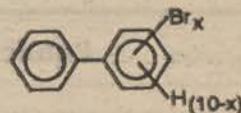
Lead Compounds - (Category Code N420) - Includes any unique chemical substance that contains lead as part of that chemical's infrastructure. (Inorganic compounds: 0.1; organic compounds: 1.0)

Manganese Compounds - (Category Code N450) - Includes any unique chemical substance that contains manganese as part of that chemical's infrastructure. (1.0)

Mercury Compounds - (Category Code N458) - Includes any unique chemical substance that contains mercury as part of that chemical's infrastructure. (1.0)

Nickel Compounds - (Category Code N495) - Includes any unique chemical substance that contains nickel as part of that chemical's infrastructure. (0.1)

Polybrominated Biphenyls (PBBs) - (Category Code N575) - (0.1)



where $x = 1$ to 10

Selenium Compounds - (Category Code N725) - Includes any unique chemical substance that contains selenium as part of that chemical's infrastructure. (1.0)

Silver Compounds - (Category Code N740) - Includes any unique chemical substance that contains silver as part of that chemical's infrastructure. (1.0)

Thallium Compounds - (Category Code N760) - Includes any unique chemical substance that contains thallium as part of that chemical's infrastructure. (1.0)

Zinc Compounds - (Category Code N982) - Includes any unique chemical substance that contains zinc as part of that chemical's infrastructure. (1.0)

APPENDIX A. BLANK TOXIC CHEMICAL RELEASE INVENTORY REPORTING FORM R

Public Reporting Burden

Public reporting burden for this collection of information is estimated to average 43 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (PM-223), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460, Attention: TRI Burden, and to the Office of Information and Regulatory Affairs, Office of Management and Budget Paperwork Reduction Project (2070-0093), Washington, D.C. 20603.

(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0093

Approval Expires: 11/92

Page 1 of 9



United States
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FORM R TOXIC CHEMICAL RELEASE INVENTORY REPORTING FORM

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986,
also known as Title III of the Superfund Amendments and Reauthorization Act

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

WHERE TO SEND COMPLETED FORMS:

1. EPCRA Reporting Center
P.O. Box 23779
Washington, DC 20026-3779
ATTN: TOXIC CHEMICAL RELEASE INVENTORY

2. APPROPRIATE STATE OFFICE
(See instructions in Appendix F)

Enter "X" here if
this is a revision

**IMPORTANT: See instructions to determine when "Not
Applicable (NA)" boxes should be checked.**

For EPA use only

PART I. FACILITY IDENTIFICATION INFORMATION

SECTION 1.

REPORTING YEAR

19 ____

SECTION 2. TRADE SECRET INFORMATION

Are you claiming the toxic chemical identified on page 3 trade secret?

2.1

☐ Yes (Answer question 2.2;
Attach substantiation forms) ☐ No (Do not answer 2.2;
Go to Section 3)

2.2

If yes in 2.1, is this copy:

☐

Sanitized

☐

Unsanitized

SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)

I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.

Name and official title of owner/operator or senior management official

Signature

Date Signed

SECTION 4. FACILITY IDENTIFICATION

Facility or Establishment Name

TRI Facility ID Number

Street Address

City

County

4.1

State

Zip Code

Mailing Address (if different from street address)

City

State

Zip Code

PUT LABEL HERE



EPA FORM R

PART I. FACILITY IDENTIFICATION
INFORMATION (CONTINUED)


TRI FACILITY ID NUMBER
Toxic Chemical, Category, or Generic Name

SECTION 4. FACILITY IDENTIFICATION (Continued)

4.2	This report contains information for: (Important: check only one)		a. <input type="checkbox"/> An entire facility		b. <input type="checkbox"/> Part of a facility	
4.3	Technical Contact	Name	Telephone Number (include area code)			
4.4	Public Contact	Name	Telephone Number (include area code)			
4.5	SIC Code (4-digit)	a.	b.	c.	d.	e.
4.6	Latitude and Longitude	Latitude			Longitude	
Degrees		Minutes	Seconds	Degrees	Minutes	Seconds
4.7	Dun & Bradstreet Number(s) (9 digits)				a.	
					b.	
4.8	EPA Identification Number(s) (RCRA I.D. No.) (12 characters)				a.	
					b.	
4.9	Facility NPDES Permit Number(s) (9 characters)				a.	
					b.	
4.10	Underground Injection Well Code (UIC) I.D. Number(s) (12 digits)				a.	
					b.	

SECTION 5. PARENT COMPANY INFORMATION

5.1	Name of Parent Company	
	<input type="checkbox"/> NA	
5.2	Parent Company's Dun & Bradstreet Number	
	<input type="checkbox"/> NA	(9 digits)

 EPA United States Environmental Protection Agency	EPA FORM R PART II. CHEMICAL-SPECIFIC INFORMATION	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">TRI FACILITY ID NUMBER</td></tr> <tr><td style="height: 20px;"></td></tr> <tr><td style="padding: 2px;">Toxic Chemical, Category, or Generic Name</td></tr> <tr><td style="height: 20px;"></td></tr> </table>	TRI FACILITY ID NUMBER		Toxic Chemical, Category, or Generic Name	
TRI FACILITY ID NUMBER						
Toxic Chemical, Category, or Generic Name						

SECTION 1. TOXIC CHEMICAL IDENTITY (Important: DO NOT complete this section if you complete Section 2 below.)	
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes." Generic Name must be structurally descriptive.)

SECTION 2. MIXTURE COMPONENT IDENTITY (Important: DO NOT complete this section if you complete Section 1 above.)	
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)

SECTION 3. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY (Important: Check all that apply.)		
3.1	Manufacture the toxic chemical:	<div style="display: flex; justify-content: space-between;"> <div> a. <input type="checkbox"/> Produce b. <input type="checkbox"/> Import </div> <div> If produce or import: c. <input type="checkbox"/> For on-site use/processing d. <input type="checkbox"/> For sale/distribution e. <input type="checkbox"/> As a byproduct f. <input type="checkbox"/> As an impurity </div> </div>
3.2	Process the toxic chemical:	<div style="display: flex; justify-content: space-between;"> <div> a. <input type="checkbox"/> As a reactant b. <input type="checkbox"/> As a formulation component </div> <div> c. <input type="checkbox"/> As an article component d. <input type="checkbox"/> Repackaging </div> </div>
3.3	Otherwise use the toxic chemical:	<div style="display: flex; justify-content: space-between;"> <div> a. <input type="checkbox"/> As a chemical processing aid b. <input type="checkbox"/> As a manufacturing aid </div> <div> c. <input type="checkbox"/> Ancillary or other use </div> </div>

SECTION 4. MAXIMUM AMOUNT OF THE TOXIC CHEMICAL ON-SITE AT ANY TIME DURING THE CALENDAR YEAR	
4.1	<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; width: 60px; height: 25px; margin-right: 10px;"></div> <div>(Enter two-digit code from instruction package.)</div> </div>



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EPA FORM R

**PART II. CHEMICAL-SPECIFIC
INFORMATION (CONTINUED)**

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

SECTION 5. RELEASES OF THE TOXIC CHEMICAL TO THE ENVIRONMENT ON-SITE

			A. Total Release (pounds/ year) (enter range code from instructions or estimate)	B. Basis of Estimate (enter code)	C. % From Stormwater
5.1	Fugitive or non-point air emissions	<input type="checkbox"/> NA			
5.2	Stack or point air emissions	<input type="checkbox"/> NA			
5.3	Discharges to receiving streams or water bodies (enter one name per box)				
5.3.1	Stream or Water Body Name				
5.3.2	Stream or Water Body Name				
5.3.3	Stream or Water Body Name				
5.4	Underground injections on-site	<input type="checkbox"/> NA			
5.5	Releases to land on-site				
5.5.1	Landfill	<input type="checkbox"/> NA			
5.5.2	Land treatment/ application farming	<input type="checkbox"/> NA			
5.5.3	Surface impoundment	<input type="checkbox"/> NA			
5.5.4	Other disposal	<input type="checkbox"/> NA			
<input type="checkbox"/> Check here only if additional Section 5.3 information is provided on page 5 of this form.					



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PART II. CHEMICAL-SPECIFIC INFORMATION (CONTINUED)

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

SECTION 5.3 ADDITIONAL INFORMATION ON RELEASES OF THE TOXIC CHEMICAL TO THE ENVIRONMENT ON-SITE

5.3	Discharges to receiving streams or water bodies (enter one name per box)	A. Total Release (pounds/year) (enter range code from instructions or estimate)	B. Basis of Estimate (enter code)	C. % From Stormwater
5.3.____	Stream or Water Body Name			
5.3.____	Stream or Water Body Name			
5.3.____	Stream or Water Body Name			

SECTION 6. TRANSFERS OF THE TOXIC CHEMICAL IN WASTES TO OFF-SITE LOCATIONS

6.1 DISCHARGES TO PUBLICLY OWNED TREATMENT WORKS (POTW)

6.1.A Total Quantity Transferred to POTWs and Basis of Estimate

6.1.A.1 Total Transfers (pounds/year) (enter range code or estimate)	6.1.A.2 Basis of Estimate (enter code)
<h4>6.1.B POTW Name and Location Information</h4>	
6.1.B.____ POTW Name	6.1.B.____ POTW Name
Street Address	Street Address
City	City
County	County
State	State
Zip Code	Zip Code

If additional pages of Part II, Sections 5.3 and/or 6.1 are attached, indicate the total number of pages in this box and indicate which Part II, Sections 5.3/6.1 page this is, here.
(example: 1, 2, 3, etc.)



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PART II. CHEMICAL-SPECIFIC INFORMATION (CONTINUED)

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS

6.2. Off-site EPA Identification Number (RCRA ID No.)		
Off-Site Location Name		
Street Address		
City	County	
State	Zip Code	Is location under control of reporting facility or parent company? <input type="checkbox"/> Yes <input type="checkbox"/> No
A. Total Transfers (pounds/year) (enter range code or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)
1.	1.	1. M
2.	2.	2. M
3.	3.	3. M
4.	4.	4. M

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS

6.2. Off-site EPA Identification Number (RCRA ID No.)		
Off-Site Location Name		
Street Address		
City	County	
State	Zip Code	Is location under control of reporting facility or parent company? <input type="checkbox"/> Yes <input type="checkbox"/> No
A. Total Transfers (pounds/year) (enter range code or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)
1.	1.	1. M
2.	2.	2. M
3.	3.	3. M
4.	4.	4. M

If additional pages of Part II, Section 6.2 are attached, indicate the total number of pages in this box and indicate which Part II, Section 6.2 page this is, here. (example: 1, 2, 3, etc.)



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PART II. CHEMICAL-SPECIFIC INFORMATION (CONTINUED)

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

SECTION 7A. ON-SITE WASTE TREATMENT METHODS AND EFFICIENCY

☐ Not Applicable (NA) - Check here if no on-site waste treatment is applied to any waste stream containing the toxic chemical or chemical category.

a. General Waste Stream (enter code)	b. Waste Treatment Method(s) Sequence (enter 3-character code(s))	c. Range of Influent Concentration	d. Waste Treatment Efficiency Estimate	e. Based on Operating Data?
7A.1a	7A.1b	7A.1c	7A.1d	7A.1e
	1 <input type="text"/> 2 <input type="text"/>			
	3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>
	6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/>		% <input type="text"/>	<input type="checkbox"/> <input type="checkbox"/>
7A.2a	7A.2b	7A.2c	7A.2d	7A.2e
	1 <input type="text"/> 2 <input type="text"/>			
	3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>
	6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/>		% <input type="text"/>	<input type="checkbox"/> <input type="checkbox"/>
7A.3a	7A.3b	7A.3c	7A.3d	7A.3e
	1 <input type="text"/> 2 <input type="text"/>			
	3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>
	6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/>		% <input type="text"/>	<input type="checkbox"/> <input type="checkbox"/>
7A.4a	7A.4b	7A.4c	7A.4d	7A.4e
	1 <input type="text"/> 2 <input type="text"/>			
	3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>
	6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/>		% <input type="text"/>	<input type="checkbox"/> <input type="checkbox"/>
7A.5a	7A.5b	7A.5c	7A.5d	7A.5e
	1 <input type="text"/> 2 <input type="text"/>			
	3 <input type="text"/> 4 <input type="text"/> 5 <input type="text"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>
	6 <input type="text"/> 7 <input type="text"/> 8 <input type="text"/>		% <input type="text"/>	<input type="checkbox"/> <input type="checkbox"/>

If additional copies of page 7 are attached, indicate the total number of pages in this box and indicate which page 7 this is, here. (example: 1, 2, 3, etc.)



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EPA FORM R**PART II. CHEMICAL-SPECIFIC
INFORMATION (CONTINUED)**

TRI FACILITY ID NUMBER

Toxic Chemical, Category, or Generic Name

SECTION 7B. ON-SITE ENERGY RECOVERY PROCESSES

☐ Not Applicable (NA) - Check here if no on-site energy recovery is applied to any waste stream containing the toxic chemical or chemical category.

Energy Recovery Methods [enter 3-character code(s)]

1

2

3

4

SECTION 7C. ON-SITE RECYCLING PROCESSES

☐ Not Applicable (NA) - Check here if no on-site recycling is applied to any waste stream containing the toxic chemical or chemical category.

Recycling Methods [enter 3-character code(s)]

1

2

3

4

5

6

7

8

9

10



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**PART II. CHEMICAL-SPECIFIC
INFORMATION (CONTINUED)**

TRI FACILITY ID NUMBER

Chemical, Category, or Generic Name

SECTION 8. SOURCE REDUCTION AND RECYCLING ACTIVITIES

All quantity estimates can be reported using up to two significant figures.		Column A 1990 (pounds/year)	Column B 1991 (pounds/year)	Column C 1992 (pounds/year)	Column D 1993 (pounds/year)
8.1	Quantity released *				
8.2	Quantity used for energy recovery on-site				
8.3	Quantity used for energy recovery off-site				
8.4	Quantity recycled on-site				
8.5	Quantity recycled off-site				
8.6	Quantity treated on-site				
8.7	Quantity treated off-site				
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year)				
8.9	Production ratio or activity index				
8.10	Did your facility engage in any source reduction activities for this chemical during the reporting year? If not, enter "NA" in Section 8.10.1 and answer Section 8.11.				
	Source Reduction Activities [enter code(s)]	Methods to Identify Activity (enter codes)			
8.10.1		a.	b.	c.	
8.10.2		a.	b.	c.	
8.10.3		a.	b.	c.	
8.10.4		a.	b.	c.	
8.11	Is additional optional information on source reduction, recycling, or pollution control activities included with this report? (Check one box)				YES <input type="checkbox"/> NO <input type="checkbox"/>

* Report releases pursuant to EPCRA Section 329(b) including "any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment." Do not include any quantity treated on-site or off-site.

EPA Form 9350 - 1 (Rev. 5/14/92) - Previous editions are obsolete.

BILLING CODE 6560-50-C

EPA will print and mail the form and instructions directly to facilities which have reported previously under EPCRA section 313. Facilities reporting for the first time under EPCRA section 313 can request a copy of the form and instructions through their EPA Regional Office or the EPCRA Hotline listed under FOR FURTHER INFORMATION CONTACT.

Dated: May 22, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention,
Pesticides and Toxic Substances.

[FR Doc. 92-12529 Filed 5-26-92; 8:45 am]

BILLING CODE 6560-50-F

Reader Aids

Federal Register

Vol. 57, No. 102

Wednesday, May 27, 1992

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